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Diplomacy and the study of international



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DIPLOMACY
AND
THE STUDY OF
INTERNATIONAL RELATIONS

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D I P L O M A C Y
AND THE
STUDY OF
INTERNATIONAL
RELATIONS

BY

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PREFACE

IN this work an attempt is made to portray diplomacy and the conduct of foreign policy from the standpoint of history, to show how they have been analysed and appraised by representative writers, and to indicate sources from which the knowledge thus acquired may be supplemented. The sources could have been very much expanded. Those that I have indicated are such as have been of use to myself—most of them for many years; and I believe that some, at least, of them will be useful to the citizen as well as to the student.

The conduct of foreign policy affects no people more vitally than the British. The nature of their constitutional system and the magnitude and complexity of the interests ultimately entrusted to their determination invest the electorate with special privileges and a special responsibility. The actual conduct of foreign policy must be committed to the hands of a few. But it is now clear to many who had given little thought to the matter before 1914 that there are grave dangers in keeping the bulk of the electorate uninstructed regarding the general character and the imperious demands of our foreign connexions. Sir John Seeley drew attention ¹ to the comparative neglect with which British historians of Britain had treated her foreign policy, and in a section of the present work ² it is pointed out that writers on our constitution and on our political problems have treated very slightly of the manner of conducting the foreign policy of this country,

¹ See p. 168.

² See pp. 172-5.

and of the nature of the responsibility incurred. Our political classics may, no doubt, be made to yield in knowledge of general principles and in a general habit of mind in politics what will compensate for the lack of special knowledge regarding the activities and character of any one sphere of government, however important that sphere be. But political classics and the training they provide touch only a small number. To the British citizen of to-day our own political classics cannot seem to bear directly on the political problems that confront him and those who act for him. The citizen of the United States of America is more happily placed. In the wealth of her writings on politics since the sixteenth century—in their number and in their high worth—Britain is not surpassed even by France; and yet there is no work which the British citizen of to-day can read with so much benefit for the understanding of the political system of his country as that which the American citizen derives from the reading of *The Federalist* as a commentary on the written constitution of the United States at the time of its making, and as an exposition of rights and duties of an active citizenship. More may be said: there is no British work on politics that will better repay perusal and thought by the British citizen of to-day than this American political classic.

The Federalist contains lessons which recent discussions at Westminster that have not yet spent themselves make highly pertinent. The power of making treaties, it said, is plainly neither a legislative nor an executive function. Its objects are contracts with a foreign nation, which have the force of law, but derive that force from the obligation of good faith. We find Jay protesting against the democrat extremists of his time and country who claimed that treaties should be made by the same authority as acts of assembly, and should be subject to repeal at pleasure; and Alexander Hamilton saw

in the composition and character of the House of Representatives sufficient grounds for rejecting the claim that it should be admitted to a share with the President and the Senate in the making of treaties. Hamilton did not forecast a smooth path of peace and amity for his country. 'It ought never to be forgotten', he wrote in *The Federalist* of February 22, 1788, 'that a firm union of this country under an efficient government, will probably be an increasing object of jealousy to more than one nation of Europe; and that enterprises to subvert it will sometimes originate in the intrigues of foreign Powers, and will seldom fail to be patronized and abetted by some of them.' Even in 'The Farewell Address' of Washington, which came from the pen of Hamilton, all is not idealism and hopefulness in the sphere of foreign relations. But Hamilton's impressive warning in *The Federalist* against endowing the House of Representatives with a share in the treaty-making power rests on reasoning and carries significance that are not confined either to his own day or to his own country. 'Accurate and comprehensive knowledge of foreign politics; a steady and systematic adherence to the same views; a nice and uniform sensibility to national character; decision, *secrecy*, and dispatch, are incompatible with the genius of a body so variable and so numerous.'

No apology should be needed for the attention given in this book to works on International Law and on the History of International Law. Political Science without History, it has been said, has no root; and History without Political Science has no fruit. The history of international relations has fruit for each age in treaties, which the international lawyer interprets as expressions of movement of thought, and in the developing of conventions and standards that are recognized in the Society of Nations. In the history of International Law is shown a large part of the fruit of the

intercourse of nations. The two studies have, of late, been too much severed in this country.

A concluding section of the book, apart from the Appendix, treats of 'International Morality: Projects of Perpetual Peace: The Society of Nations'. The standpoint throughout this work is historical; and History does not give much encouragement to the promulgators of schemes of Perpetual Peace. But historians and historical students of politics and policy should not too readily submit to the charge that they can provide no principles for guidance; that they are slaves to 'the event', and can furnish nothing better than maxims finely qualified to the point of timidity; that, like the Cyclops, they have but one eye, and that it looks behind only, and, according to the poet-moralist's censure of the historian, takes delight in the blazoning of 'power and energy detached from moral purpose'. Everything, it was said by a recent Continental statesman, may be left in part to the hazards of the unforeseen—everything except the fortunes of nations. The historian of international policy will add all the weight of his knowledge and authority to the school of caution and pre-cautions in statesmanship. But the lessons he draws, or merely permits to disclose themselves, from the past are not sunk in gloom so deep that he may not say with Tocqueville, 'I will not believe in the darkness merely because I do not clearly see the new day that is to arise'.

The main Appendix consists of two parts. The first gives, within its space and scope, a selection of passages from writers to illustrate phases and features of diplomacy. These extracts were given, according to my first plan, in illustration of the thought and standpoint of each of the authors cited, and were included in the seventh section of 'The Study of International Relations'. My thanks are due to the publishers' advisers, and especially to Mr. H. W. C. Davis, of Balliol College, for

the suggestion that they should be arranged according to subject and printed as an Appendix. In this form they are likely to be of more use. The second part of the Appendix treats, almost wholly in the words of primary authorities, of a number of practical questions bearing on the modern and quite recent and prospective conduct of foreign policy, in illustration of the text and as a supplement to the notes.

At the beginning of 1916 I wrote a very few pages intended to help towards the study of international relations. They were written for The Historical Association of Scotland, and were reprinted for The Historical Association (of England). In the course of this work I have made use of what I then wrote.

D. P. H.

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DIPLOMACY
AND THE
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DIPLOMACY AND THE CONDUCT OF FOREIGN POLICY

I

MR. FREEMAN, who had the keen interest of a politician and partisan in questions of foreign policy in his own day, as well as the profound knowledge of the historian, once described an experience he had as a magistrate in petty sessions.¹ He had to examine two witnesses, each of whom was required to give an account of a certain conversation. One of them presented his view of what passed in the words, 'They all began to talk politics, putting questions to me that I could not answer'. The other witness, describing the same conversation, said, 'They began to talk about the rise of the world, and Adam and Eve'. Mr. Freeman remarked that the definition of politics implied in the second of these statements had often come before his mind since the words were spoken. He thought that the man who looked upon a discussion about 'the rise of the world, and Adam and Eve' as coming under the head 'politics' showed an acute sense of what politics really are. 'A conversation about the rise of the world would be very apt to pass into theological discussion, and theological discussion is very apt to pass into more strictly political discussion. . . . Every political question is a question of our duty as a nation ; it is, therefore, a moral question.' Mr. Freeman thought he took this view of politics himself during the two years of storm and stress in the history of the Eastern

¹ Thompson, *Public Opinion and Lord Beaconsfield* (1886), ii. 39-40, quoting from Mr. Freeman's letter, 'No Politics', in the *Daily News*, September 28, 1876.

Question from 1876 to 1878, when, like many others, he was charged with making 'political capital' (as it was termed) out of the evil deeds of the Turks and the sufferings of Christians. In a speech he made in 1876 he blamed both Palmerston and Russell; and no Liberal, he said, objected to his censure. But, the moment he began to blame Lord Derby, a Tory shouted, 'No politics'. Worst of all, Mr. Freeman had to submit to being called by the enemy 'philanthropist', whereas he was only 'talking politics' and putting questions they could not answer.¹

¹ 'By those who were opposed to Freeman's views on this question, he was denounced as "an itinerant demagogue", "an agitator", "an hysterical screamer", "a philanthropic enthusiast", "a sentimental, unpractical politician", and the like. . . . He replied to the charge of being a sentimental and unpractical politician by retorting it upon his adversaries' (see 'Sentimental and Practical Politics', *Princeton Review*, March 1879). 'The really unpractical men were those who took no account of national sentiment, which was one of the strongest factors in national life. In the wise words of Guizot, "the instinct of nations sees further than the negotiations of diplomatists". . . . It will be noticed that in this, as in all other political controversies, Freeman brought every question to the touchstone of morals. He did not ask in the first instance whether any proposed course of action was likely to promote British interests and power, but whether it was honourable, straightforward, and just.'—Stephens, *Life and Letters of Edward A. Freeman* (1895), ii. 119–120, 121. On December 9, 1876, Freeman spoke with Gladstone and others at St. James's Hall, London, in protest against Turkish oppression and against Britain interfering with the work of emancipation, whether that of Russia or of any other Power. Dealing with the argument that the interests of this country, and in particular her dominion in India, would be imperilled, if a Russian ship of war should enter the Mediterranean, he said, 'Well, if it be so, let duty come first and interest second, and perish the interests of England, perish our dominion in India, rather than that we should strike one blow or speak one word on behalf of the wrong against the right.' Freeman was at pains to refute the assertion that he had said 'Perish India'. See Stephens, *op. cit.*, ii. 113, and Thompson, *op. cit.*, i. 361, note, ii. 129–36, especially 133, 135.

It was about the same time that another historian—Professor Seeley—who held, like Mr. Freeman, that history is the training-ground for both citizenship and statesmanship, was addressing a working-men's club in London; and in the discussion that followed his lecture a remark was made which he often recalled, especially when he tried to measure the competence of the great mass of men for judging of large national issues. 'I don't know how you feel,' said a working-man, turning to the gathering of working-men, 'and I don't know how it is, but whenever I hear the Russians mentioned, I feel the blood tingling all over me.' The lecturer was alarmed at this way of handling the question before the meeting. Many, however, in the audience seemed to be surprised at the impression which was made upon him by the assumption of this speaker, that a mere instinctive feeling might quite fairly be taken as a guide to the proper steps for determining policy towards an important issue in international affairs.¹ Seeley's lecture was given about ten years after Robert Lowe had uttered his deduction from the passing of the Second Reform Bill—that now we 'must educate our masters'. Sir Mountstuart Grant Duff² very dutifully and trustingly

¹ Seeley, *Macmillan's Magazine*, September 1880.

² As Member of Parliament for the Elgin Burghs, 1857–81. In 1860 he gave the first in a long succession of annual speeches to his constituents, intended to survey the field of current politics, and especially that of international affairs. See his *Elgin Speeches* (1871). Everything may be left in part to the hazards of the unforeseen—everything except the fate of nations. That, in the language of Emilio Castelar (Grant Duff, *Miscellanies, Political and Literary* (1878), 214–87), may be taken as the foundation and motive of the effort of the Member for the Elgin Burghs. 'I think there is no man in Scotland who has tried more carefully to keep his constituents acquainted with what he thought upon all great matters, by submitting his thoughts to them at these annual gatherings.'—*Miscellanies*, 314. He deplored the evil, that 'few English politicians find it worth their while to make a specialty of the study of foreign questions.'—

experimented with that task. And certainly it is wiser to prevent somnambulism in politics by salutary ministration than to try to cure it by sudden shock. But we shall cure where we have not been able to prevent, only if we resolutely face the facts. The most sternly effective encounter for the somnambulist of the day-time in politics—and he is ever with us—would, we may be sure, be a meeting with Machiavelli. But we are anticipating.

The chief and never-ending task of the political historian is the study and estimate of policy and of the instruments for the conduct of policy—the study and estimate of statesmanship. By ‘policy’ we mean a reasoned line of action taken in relation to conditions as present, and as seen and understood, with a view to improving them. It is the application of mind and means to conditions for an object, immediate or distant, or both. Both the immediate means and the immediate object may at times seem to conflict with a larger and ultimate object, and yet be sound and necessary: we do not appraise by the same standard the Tudor body politic and modern parliamentarianism. We must never separate the study of policy—whether it be the statesman’s study of policy in prospect, or the historian’s in retrospect—from the appreciation of the instruments on the understanding and the use

‘Foreign Policy’ in *Practical Politics* (1881), 81. ‘Much of the good, however, that might result from the increased knowledge of statesmen about foreign affairs will be lost, if they do not take more pains to spread their own knowledge and ideas amongst their countrymen. If they do not do so, their hands may be forced at any moment, and they may be driven into courses which will be equally disagreeable to sane Liberals and sane Conservatives, by some sudden enthusiasm, which would never have taken hold on the popular mind if men in the front rank of politics had been wise in time, and had kept their countrymen a little more *au courant* of their thoughts.’—*Ibid.* 87. Further, ‘in dealing with a democracy you must not only *be* right, but *seem* right.’—*Ibid.* 79.

of which success depends ; and we must test the character of the instruments by the work they have to do. A constitution, and the whole equipment, personal and impersonal, of government, must be judged not in themselves alone—for in themselves they have no meaning—but according to the people whose constitution and equipment they are, and according to the problems in politics that have to be grappled with at the time, and by the measure of suitability of the constitution and its organs for dealing with these problems successfully. We can never evade circumstance—that unspiritual god—in politics. Intellectually possible, no doubt, it is, and an exercise of high intellect it can become, to study politics, if politics it then be, apart from conditions in fact and circumstance : possible it is to construct a scheme of politics, or a system of thought on polity, that shall not be shaped and determined by realities and by what is practicable—to write at large of ‘ the ’ State without ever having clearly observed a State, and compared one State at work with others, both in their methods and in their achievements. There is a philosophy of politics that starts from an inspiration or an assumption, builds on principles, and leads up, it hopes, to Truth. Students of history and observers of politics, in their mundane view, do not aspire to that freedom of movement, nor, it may be, to the glory of the non-terrestrial vision, even while they do not interpret the real in history as the merely material, even while they allow for psychological and ethical factors in the life and politics of a people, and are not unmindful of the City of God of St. Augustine and of the *De Monarchia* of Dante, nor are scornful of the Utopias of politics. The politics with which they have to do start from conditions in time and place, with the tyranny, it may be, of circumstance, build on policy, and lead, it is hoped, to success. That success may approximate to intellectual certitude and philosophic truth where a wise

policy has touched with tolerance and skill problems of the mind and conscience—the sphere of liberty for mind and conscience. But more often the success of policy is seen merely in an improvement of the material conditions of life, in greater and better-distributed wealth, in a higher social well-being, and in the welding of the parts of a society into something like a harmonious community—the integrity of the body politic. Twice happy the statesman who not only has a high conception of end in his politics, but can point to great practical achievement in striving to attain the goal; and thrice happy that statesman who, in thus achieving, has not made any unworthy sacrifice of right in the means he has taken for the ends he has had before him.

The relation of means to end is a consideration paramount in the study of history and politics. In the study of history we must always be dispassionate, and in estimate severely just. The Muse is false to her calling if she becomes generous. To be just in estimate is what we are all concerned with in study and writing and teaching: not otherwise can lessons be drawn from the past for the present. But we should be unjust—generous or too severe—if we did not know the conditions—the situation, we do well to call it—with which policy, or the men of action, had to deal; and if, knowing the situation, we did not allow for it equitably in the estimate that we form. We must not equate principles or ideal and conditions or fact.¹ Therefore, we cannot accept the stand-

¹ 'It is not by attending to the dry, strict, abstract principles of a point, that a just conclusion is to be arrived at in political subjects. They are not to be determined by mathematical accuracy. Wisdom is to be gained in politics, not by any one rigid principle, but by examining a number of incidents; by looking attentively at causes, and reflecting on the effects they have produced; by comparing a number of events together, and by taking, as it were, an average of human affairs.'—Pitt, April 7, 1794, *Speeches* (1806), ii. 190.

point of that school of history, or of moral philosophers busying themselves with the records and deeds and men of the past—a school of which Lord Acton was a conspicuous example in our own generation—that would lay down an absolute and binding canon in the sphere of right and wrong, and require that no plea of over-mastering and tyrannous conditions can condone deviation from the moral law in the use of means by the politician for the gaining of an end desirable in the interest of the State—the living and developing body politic. Such a rule would, assuredly, be a very simple and very clear rule to apply. We need not go, in its stead, to the opposite extreme. We need not say that everything is relative : that that is the only doctrine and rule that is absolute. But the simple, clear, rigid rule of moral estimate is one which even those who almost make of politics a religion may righteously refuse to accept. Its enforcement would result in the doing of gross injustice to the men whose part it has been sternly to achieve by grasping that ‘stumbling guidance along the path of reliance and action which is the path of life’, and not merely to think and hope and have visions. But, inasmuch as we repudiate the absolute canon of the moralist in historical estimate, for judgement that shall be just, we have the more need to be scrupulous in our search for historical conditions, in the measure of allowance we make for them, in our scrutiny both of the end that is sought and of the means that are used.

These considerations bear with especial force upon questions of foreign and international policy, owing to the complexity of the conditions that are essentially involved. An ambassador—we have all heard from Sir Henry Wotton and his interpreter, Izaak Walton—is ‘an honest man who is sent to lie abroad for the good of his country’.¹ Well : much depends

¹ The ‘hinge upon which the conceit was to turn’ is found in the use of the word ‘lieger’ or ‘lieger ambassador’, one who was appointed to

upon conditions, and upon one's country—upon the 'salutary prejudice' called one's country (it is of good omen, with

remain or 'lie' at a foreign court, a resident ambassador, as distinct from the temporary ambassador who was sent on a special and limited mission, the latter only being at first and for a long time permitted. Wotton's 'pleasant definition'—a 'merriment' he termed it to James I in self-defence—was given in Latin, and in Latin that does not furnish the hinge of the conceit. Walton ('The Life of Sir Henry Wotton', in his *Lives*, ed. 1825, 122-4) gives the following account: 'At his first going Ambassador into Italy, as he passed through Germany, he stayed some days at Augusta [Augsburg]; where, having been in his former travels well known by many of the best note for learning and ingeniousness,—those that are esteemed the *virtuosi* of that nation,—with whom he passing an evening in merriments, was requested by Christopher Flecamore to write some sentence in his Albo;—a book of white paper, which for that purpose many of the German gentry usually carry about them: and Sir Henry Wotton consenting to the motion, took an occasion, from some accidental discourse of the present company, to write a pleasant definition of an Ambassador in these very words:

"Legatus est vir bonus, peregrinè missus ad mentiendum Reipublicae causâ"

which Sir Henry Wotton could have been content should have been thus Englished:

"An ambassador is an honest man, sent to lie abroad for the good of his country".

But the word for *lie*—being the hinge upon which the conceit was to turn—was not so expressed in Latin, as would admit—in the hands of an enemy especially—so fair a construction as Sir Henry thought in English.' Later in the 'Life' (*ibid.* 138-9), Walton writes that 'a friend of Sir Henry Wotton's being designed for the employment of an Ambassador, came to Eton' (of which Wotton was Provost) 'and requested from him some experimental rules for his prudent and safe carriage in his negotiations: to whom he smilingly gave this for an infallible aphorism: That to be in safety himself, and serviceable to his country, he should always, and upon all occasions, speak the truth,—it seems a State paradox—for, says Sir Henry Wotton, you shall never be believed; and by this means your truth will secure yourself, if you shall ever be called to any account; and

Priam, to fight for her), upon what she has been, and is, and stands for, and has to stand against. 'Remember in all that you do that you are in an enemy country', a recent German Ambassador is said to have remarked in words of advice to a junior who was proceeding to London: it would not be necessary to add, 'But so conduct yourself as though you are a friend'. Assuredly we may all agree that no representative of his country abroad should drink of the potion described in poetic fiction that made men forget their country; and, so, it is a wise recommendation that members of the diplomatic service should fortify themselves against such insinuating influence by periodic visits to the land they represent.¹

it will also put your adversaries—who will still hunt counter—to a loss in all their disquisitions and undertakings.'

¹ See the very instructive and valuable *Report from the Select Committee on Diplomatic Service* (with Proceedings, Minutes of Evidence), 1861: 197 (Sir G. H. Seymour: 'A man should not be left in a foreign country long enough to become a German or a Spaniard, but . . . should fortify himself every now and then by coming to England'); 458 (Sir T. Wyse, writing from Athens to Lord John Russell: 'British ministers abroad should be encouraged from time to time to return to their own country with the view of keeping up to the level of political knowledge of which England is the centre, and bracing themselves anew, in the atmosphere of our free institutions and existence, to that English spirit and bearing which is the best guarantee for legitimate success with other nations, and which I trust will always be the distinction of English diplomacy in every part of the world.' Similarly, Grant Duff, who was a member of the Committee which reported in 1861, writing on 'Foreign Policy' in *Practical Politics* (1881), 85-6: 'Diplomatists should not be quite so much "up in a balloon" as they often are . . . it is a real misfortune that they are not oftener enabled . . . to come into contact with our home political life. They greatly need *se retremper* from time to time in its boisterous but health-bestowing currents; there should be, if possible, more frequent exchanges from parliamentary to diplomatic, and from diplomatic to parliamentary activity. That a man should be at once a member of the House of Commons and a representative of his Sovereign abroad, as was the case,

There is much in the point of view in estimates of the diplomatic service. Some there have been, and there may still be some, who think of the head of a legation as the giver of very good dinners; and in the evidence forthcoming before the Select Committee, appointed by the House of Commons, in 1861, to inquire into the constitution and efficiency of the diplomatic service of this country, it was declared that the giving of good dinners is a quite necessary and very valuable part of the function of a diplomatist: 'a good dinner goes a great way in diplomacy'¹ was the celebrated opinion twice² sworn to by Sir Hamilton Seymour, who had over forty years' experience of diplomacy. The Head of the Foreign Office, again, may sometimes think of a diplomatist as one who is specially solicitous for his health. 'You will be struck', said Palmerston to a successor at the Foreign Office, in 1852, 'with a very curious circumstance, that no climate agrees with an English diplomatist excepting that of Paris, Florence, or Naples'.³ The schoolmaster, yet again, looking to the interest of his pupil as a hopeful attaché would emphasize the importance of handwriting—'a good bold hand with distinctly formed letters',⁴ and of having a command of excellent French: in recent years German was added as a second obligatory language for candidates in this country. The

for example, with Philip Stanhope, was no doubt an anomaly, but it was an anomaly which had its advantages.' (See Chesterfield's *Letters*.)

¹ *Report, supra*, 207. Cf., on fêtes and entertainments, 123, 128, 166 (They 'promote the efficiency of his political relations'—*Stratford de Redcliffe*), 232 ('There can be no doubt that the more a man entertains the better his position becomes'—*Lord Cowley*).

² In 1850 as well as in 1861.

³ Malmesbury, *Memoirs of an Ex-Minister*, under date March 11, 1852.

⁴ 'Regulations for the Examination of Unpaid Attachés, before the Civil Service Commissioners, as approved by Lord J. Russell, August 1859.'—*Report, supra*, 477.

schoolmaster would have the support of Sovereigns and Ambassadors.

The 'Foreign Office hand' in England was a legacy of Canning and Palmerston. Canning laid down the rule that not more than ten lines should be put into one page of foolscap. Palmerston advised Lord Malmesbury, when he assumed the charge of the Foreign Office, to insist on all official correspondence being written in a plain hand and with proper intervals between the lines; and he named some Ministers 'whose writing was quite illegible'.¹

Neither French nor any other language now holds the place of privilege from which French had supplanted Latin before the middle of the eighteenth century as the usual, though not universal, language of treaties and of diplomatic instruments for European States.² But a ready command of French, to be spoken with that 'easy elegance' which a polite ambassador ascribed to the speech of our Queen Elizabeth in Latin,³ has

¹ *Memoirs*, as above: 'On a very badly written despatch he [Palmerston] wrote: "Tell Mr. W., in a 'Separate', that the person who copies out his despatches should form his letters by connecting his slanting down strokes by visible lines at top or bottom according to the letters which he intends his parallel lines to represent.—P. 18/4/51." On another badly written despatch from one of H. M.'s consuls he wrote: "A Despatch must contain much valuable matter to reward one for deciphering such handwriting as this—which can only be compared to Iron Railings leaning out of the perpendicular. P. 23/12/57." Of another despatch he wrote: "Reading Mr. R.'s handwriting is like running Penknives into one's Eyes. P. 21/4/64."—Sir Edward Hertslet, *Recollections of the Old Foreign Office* (1901), 78–9.

² See Satow, *Diplomatic Practice* (2 vols. 1917), i. 58–61, and Martens, *Guide diplomatique*, i. 251–4, ed. 1838; ii. 6–9, ed. 1851.

³ Of Elizabeth's speech to an Ambassador from Sigismund III, King of Poland, in 1597, Robert Cecil wrote to the Earl of Essex: 'I swear by the living God, that her Ma^{ty} made one of the best answers *ex tempore*, in Latin, that ever I heard, being much mooved to be so challenged in publick. The wordes of her beginning were these: "*Expectavi Legationem, mihi*

long been and still is a desirable part of the equipment of both the junior and the senior members of the diplomatic service. Hamilton Seymour declared in 1861 that 'by far the most important point for those who enter the profession, is that of learning French': he agreed that the society of ladies was the society in which it could be most quickly learnt for conversational purposes.¹ He had seen men even in the higher spheres of diplomacy placed in ridiculous situations, and openly laughed at, as a consequence of their want of familiarity with the French language. 'Would you', the Earl of Clarendon was asked in 1861, 'attach supreme importance to a complete familiarity with the French language?'—'The greatest importance; I consider that a *sine quâ non*.' 'Does not the dignity, and almost the respectability, of a foreign minister a great deal depend upon his being able to communicate with his colleagues, and society, in the French language, and in a manner that should not excite either remark or ridicule?'—'Clearly so; but I also think that he should speak the language of the Court to which he is accredited.'²

vero Querelam adduxisti."—Ellis, *Original Letters* (1824), iii. 44. 'It was upon this occasion, to use the words of Speed, that the Queen, lion-like rising, daunted the malapert Orator'—rather a Herald than an Ambassador, she described him in her speech—'no less with her stately port and majestical departure, than with the tartness of her princely checks: and turning to the Traine of her Attendants, thus said: "God's death, my Lords" (for that was her oath ever in anger) "I have been enforced this day to scoure up my old Latin that hath lain long in rusting."'³—*Ibid.* iii. 41.

¹ *Report*, 201, 205; cf. 212, 238. The Regulations of 1859 required that all candidates for promotion from unpaid to paid attachéships should be able to speak and write the languages of the several countries in which they had resided since their first appointment as unpaid attachés. Candidates who had resided only in France or the United States were required to show proficiency in one other language besides French.

² *Report*, 103. In Germany the substitution of German for French, in the conduct of her diplomacy, was begun under Bismarck's predecessor,

According to the scheme of examination for unpaid attaché-ships, instituted in December 1855 when Lord Clarendon was at the head of the Foreign Office and approved by Lord John Russell in 1859, but no longer in force, History was of the kind, candidates themselves said, that they could 'get up' in three months, and get rid of in a week.¹ And no wonder: 'for the convenience of candidates' it had been settled that, 'as regards modern history generally', they were to be examined in 'so much of Heeren's *Historical Manual of the Political System of Europe and its Colonies*² as treats of history since 1789', and in the fourth volume of Russell's *Modern Europe*; and, as regards any particular country to which they might

Bernstorff, who retired, at a ministerial crisis, from the office of Foreign Minister of Prussia in October 1862. Before that time most of the secretaries in the Foreign Office had belonged to the French colony; the register of dispatches was kept in French; the Ambassadors usually reported in French. Bismarck extended the use of German, making its use the rule, in the diplomatic correspondence of Germany. He claimed even to have 'introduced' German—'only, however, with Cabinets whose language is understood in our own Foreign Office. England, Italy, also Spain—even Spanish can be read in case of need. Not with Russia, as I am the only one' (January 17, 1871) 'in the Foreign Office who understands Russian. Also not with Holland, Denmark, and Sweden—people do not learn those languages as a rule. They write in French and we reply in the same language.'—Busch, *Bismarck* (1898), i. 213, 477. It was one of Bismarck's foibles to distrust an Englishman who speaks French with a correct accent. That advice had been given to him, and he had generally found it true. But, he added, 'I must make an exception in favour of Odo Russell'.—*Ibid.* i. 420.

¹ 'I have heard those who have been crammed use this expression: That they were three months learning history, and a week in forgetting it again.'—Lord Malmesbury, *Report*, 184.

² A translation of Heeren's work from the fifth German edition (1830) had been made in 1834 (Oxford: Talboys). The work was first published in 1809. It was translated into several languages, including Swedish and Polish, before appearing in English.

be about to proceed, they were to be examined in 'so much of McCulloch's *Geographical Dictionary* as relates to that country'. But, at least, it was a background to the international system and the public international law of the candidates' own day.¹ For that it would not be quite useless.

2

The indispensable qualities for a diplomatist, according to French official statements² of the eighteenth century, are prudence, address, and dexterity; alertness, circumspection, sagacity.³ Our own favourite words for the qualities desirable are 'discretion'⁴ and 'tact': above everything else, tact—the gift of touching and handling with nice discernment and

¹ Candidates for promotion to paid attachéships were required to 'draw up a report on the general commercial and political relations of the several countries in which they may have resided; on the internal polity, and the administration and social institutions of such countries, and on the character of their people', without reference to 'current political affairs'. Further, candidates were required to show that they possessed 'such a knowledge of international law as can be acquired from Wheaton's *Elements of International Law* and Wheaton's *History of International Law*': no mean requirement, and no mean accession of strength to the candidates' 'History'.

² e.g. in the 'instruction' to d'Hautefort, ambassador to Vienna, 1750: 'Plus elle [cette commission] est importante et délicate, plus elle exige dans le ministre qui doit la remplir, une naissance distinguée, de la dignité dans la représentation, de la sagesse accompagnée de fermeté dans les discours, enfin beaucoup d'activité et de circonspection dans la conduite.'—*Recueil des Instructions données aux Ambassadeurs et Ministres de France depuis les Traités de Westphalie jusqu'à la Révolution Française: Autriche*, 312.

³ Prudence, 'that stale daughter of Hugo Grotius', hangs fetters upon the end of the goose-quill (Sir Robert Keith, *Memoirs and Correspondence* (1849), i. 444); but it is 'in all things a virtue, in politics the first of virtues' (Burke, *Correspondence* (1844), iii. 118).

⁴ This has at times assumed the form of 'a sort of dignified torpor, which seems to imply—"My slumbers are deep politics, my lead is worth other people's gold."'—Keith, ii. 401, who had in mind some Austrian ministers.

skill. Knowledge, ability, earnestness, without tact, will not make a career in the diplomatic world. Lord Brougham, for an example, could never have been a successful diplomatist. It is told of him that, when he was visiting Stuttgart, he was taken round the royal stables by the King of Würtemberg's Master of the Horse. The King was very proud of his magnificent stud of Arab horses, which he had procured at great expense from Syria. The day was bitterly cold, and Brougham, who was lightly clad, and 'with trousers scarcely reaching to his ankles', ran hurriedly through the stables, never (it is said) looked at a horse, and on coming out reduced the Master of the Horse to silence by merely remarking that 'the money spent on the stables would be more advantageously spent in building a suitable university for the education of the nobility'.¹ Brougham, disputatious and cantankerous, would have borne himself 'more like a pedant than an ambassador', in Bacon's description of a learned ecclesiastic who was a member of an unsuccessful mission from Charles VIII of France to Henry VII of England.²

History, perhaps, does not reveal to us any diplomatist who combines the manners and tact, in high degree, and, in less degree, the subtlety of a John Churchill with the political penetration, firmness and force of mind (the other qualities we omit) of a Bismarck; and the types, when thus personally presented, are almost mutually exclusive. But that is the combination that has proved desirable for the eminently successful diplo-

¹ Lord Augustus Loftus, *Diplomatic Reminiscences*, 1837-77 (1892, 1894), i. ch. vii.

² Gaguén (Gaguin), 'who, when he turned his back, more like a pedant than an ambassador, dispersed a bitter libel, in Latin verse, against the King; unto which the King, though he had nothing of a pedant, yet was content to cause an answer to be made in like verse; and that as speaking in his own person, but in a style of scorn and sport.'—Bacon, *History of the Reign of King Henry VII*, ed. by Lumby, 88.

matist in the conduct of great affairs between States. Cavour we may rank above Bismarck for success, if allowance be made for a slighter use of the expedients that are deemed questionable and that transform *la diplomatie* into *la polissonnerie*; and of Cavour—whose maxim was at times, as that of others similarly placed, ‘*tout ou rien—per fas aut nefas*’—it was said by his countryman, Manzoni, that he had both all the prudence and all the imprudence of the true statesman.

The first ambassadors—those of Biblical and Homeric times, and of times much later—were orators, men skilful of speech; and in those early days there were those, even as there are those to-day, who practise ‘open’ diplomacy, who have the bad manners actually to speak to the people in their own language, instead of merely to the King or his officers and in a language that the people understand not. When the King of Assyria sent Rabshakeh¹ from Lachish to Jerusalem, he sent with him a large army—an effective aid to the conduct of diplomacy, whether before or after the outbreak of hostilities, since speech is not at all seasons persuasion, nor persuasion always, of itself, force. To Rabshakeh there came forth ‘Eliakim, Hilkiah’s son, which was over the house, and Shebna, the scribe, and Joah, Asaph’s son, the recorder’.

‘Then said Eliakim and Shebna and Joah unto Rabshakeh, Speak, I pray thee, unto thy servants in the Syrian² language; for we understand it; and speak not to us in the Jews’ language, in the ears of the people that are on the wall. But Rabshakeh . . . stood and cried with a loud voice in the Jews’ language, and said, Hear ye the words of the great king, the king of Assyria. Thus saith the king, Let not Hezekiah deceive you :

¹ A designation of office, not a proper name. The Assyrian word is *Rab-saq*, said to mean ‘chief of the officers’.—Skinner, *Isaiab* (1900), i. 263.

² The Syrian language was the medium of international communication in Western Asia.

for he shall not be able to deliver you. . . . But they held their peace, and answered him not a word : for the king's commandment was, saying, Answer him not.'

Wisdom may be better than weapons of war, though one sinner destroyeth much good.¹

In the fifteenth century and the sixteenth, in Europe, the word 'orator' is the usual word for the envoy to whom is entrusted a special mission to a foreign Court. An agent residing abroad in the interest of his king and country, in the fifteenth century, was looked upon as a spy. Long after

¹ For much curious and not inept information and reasoning regarding the function of the orator, see *Le Parfait Ambassadeur, traduit de l'Espagnol* [of Vera : 1621] *en François par le Sieur Lancelot* (1642). 'Pour advoüer le vray, on ne peut pas estre bon Ambassadeur, sans estre bon Orateur, d'autant que tout cet office consiste en la science de persuader & dissuader, mais cela ne se peut bien pratiquer sans estre doiüé d'une grande capacité d'esprit, d'Eloquence & d'elegance ; aussi plusieurs tiennent que c'est de là que les Latins appellent un Ambassadeur, Orateur : car si un homme n'a qu'une mediocre capacité d'entendement, & n'est parfaitement instruit en l'Art de bien parler, comment pourra-il avoir l'adresse de bien faire une harangue, exposer & donner à entendre ses affaires, s'estendre sur un suiet quand il en sera besoin, exciter la ioye ou la tristesse aux cœurs d'une assemblée, selon les occurrences, mettre la paix & la concorde entre les Princes qui sont divises, ou recommander l'amour, la foy, & la Religion ? la Rethorique & l'Art de bien dire est necessairement requis en la personne d'un Ambassadeur.'—177-8. 'Antipater, Roy des Juifs, n'estoit pas bien content de ce que les Atheniens luy envoyoient Demosthene pour Ambassadeur, parce qu'il le reconnoissoit si bien pourveu de prompt & subtil entendement, de beau & riche langage, qu'il luy estoit facile de persuader tout ce qu'il vouloit, & que l'on ne luy pouvoit rien refuser qu'avec honte. Il disoit aussi qu'il craignoit d'envoyer des Ambassadeurs à Athenes, parce que Demosthenes estoit du corps de ce Senat.'—179. 'L'Eloquence est une qualité si propre à l'Ambassadeur, que ie pense que ce fut pourquoy Dieu connoissant tant de bonnes parties en Moyse pour le faire son Ambassadeur vers Pharaon, & le voulant employer à son utilité, supplea au defect de sa langue, en luy donnant pour Colleague, Aaron, qui estoit fort eloquent.'—183. See also Appendix below, pp. 216 *sqq.*

permanent embassies were accepted the resident ambassador did not divest himself of that character ;¹ nor has he entirely done so yet. The part has become merged in a larger function and has almost assumed the dress of constitutional propriety, but he is still the eyes and the ears of his State. There is still to-day a distinction in character between the reception by a State of an envoy accredited to it for the special purpose of negotiating an understanding, and the recognition of permanent envoys, representatives of foreign States. The reception and use of the former were essential to the conduct of the art of negotiating. But to send or to receive the latter is discretionary on the part of a State, although it has become an established convention for all full-Sovereign States to send and to receive them, with a view to the maintenance of intercourse among the members of the Family of Nations.² With

The character was continued in the standing general duties of ambassadors, such as all during their residence were required to discharge. These are usually stated at the conclusion of the 'Instructions' to the French Ambassadors of the eighteenth century and earlier: see *Recueil des Instructions*, e.g. t. i. : *Auricbe*, 77, 103, 113, 123, 148, 336. Definite information was sought regarding 'l'état des cours et des pays dans lesquels ils auront été employés, la qualité et quantité des troupes qui y sont entretenues, le bon ou mauvais état de leurs finances, sur l'étendue et qualité de leur commerce, sur le génie et les inclinations des princes et de leurs ministres, tant ceux qui dans toutes les cours ont la part principale à l'administration des affaires générales, mais aussi de tous ceux qui, sous quelque dénomination que ce soit, ont quelque influence dans les délibérations et résolutions relatives aux intérêts publics, enfin sur tous les objets, soit de simple curiosité, soit d'intérêt réel pour le service du Roi' (anno 1756)—op. cit. 336. Cf. t. viii : *Russie*, i. 81, 98 ('enfin il [M. Baluze, in 1702] doit rendre un compte exact de tout ce qui pourra mériter la curiosité de Sa Majesté dans un pays éloigné d'elle et où jusqu'à présent elle a eu peu de relations'), 134, 467.

² Grotius, whose great work was published in 1625, thinking, as his illustrations show, of the abuse of having resident ambassadors, and ignoring the convenience, was on the side of ancient custom in holding that

the exception of the Papacy from an early date in the Middle Ages, and of the Italian States from the thirteenth century, of which Venice became conspicuous for the excellence of the reports of its representatives, it was not till the fifteenth century that permanent legations were established;¹ and it was during that and the following century that most of the European States instituted a special department of government for foreign affairs. The first main function of the permanent legation was to watch the growth of that new portent—the standing army; and that force was to be deemed an army which was made up of enough soldiers to dare openly to invade the dominions of another, for in judging of what numbers make an army we must think of the strength of him against whom it is sent or is intended.² Between a man armed and a man unarmed no proportion could hold;³ and the saying of Pope Alexander VI, with reference to the invasion of Italy by Charles VIII of France, had become classic—that the French entered Italy with chalk in their hands to mark their

they may be rejected: ‘Optimo autem iure reiici possunt, quae nunc in usu sunt, legationes assiduae, quibus cum non sit opus, docet mos antiquus, cui illae ignoratae.’—*De Iure Belli ac Pacis*, ii. 18, 3. Vattel, whose work was published about the middle of the following century (1758), agrees with Grotius on the ground of right, but is against him on the ground of comity and convenience. There is no obligation, he admits, on the part of a sovereign to accept permanent ministers—such as have nothing to negotiate; but the custom of keeping resident ministers had become so strongly fixed that to refuse to conform to it would give offence, unless the reasons were very good for refusing.—*Le Droit des gens*, iv. 5, § 66.

¹ On the institution of legations, see the authorities cited by Oppenheim, *International Law* (1905), i. 416, and for the first and early *Relations des ambassadeurs vénitiens* (from 1268), and the connection—‘par une filiation directe’—with Byzantine diplomacy, see *Recueil des Instructions . . . de France: Russie* (Rimbaud), i. 2–3, and authorities cited; also Villari, *Machiavelli and his Times*, translated by Linda Villari (1883), iii. 235.

² Grotius, ii. 16, 1.

³ Machiavelli, *Il Principe*, xiv.

lodgings, rather than bearing swords to fight. It was only gradually that the function of ambassadors broadened out into the conduct of relations, and the maintenance of good relations, between their own States and those to which they were accredited. From the time of the Treaty of Westphalia—the treaty basis of much of the modern history of Europe¹—that higher and broader function could not be escaped; and it is from that Treaty that the institution of permanent diplomatic representatives became general in Europe. In all the development of diplomacy from Charles VIII's invasion of Italy in 1494 to the close of the 'Thirty Years' War, thence, for a hundred years, to the Treaty of Aix-la-Chapelle, and occasionally, at least, since that Treaty, the leading influence has been exerted by the consideration of the balance of power, with its nice avoidance of a hegemony, and its requirement of guarantees, in principle and in effective force, for the rights and security of the smaller States. The process has been a long and arduous one, tortuous and inconclusive. In shaping its

¹ Instructions, *passim*, to ambassadors for more than a century thereafter, and even down to the French Revolution, are ample evidence of its importance. Wheaton chose the Peace as 'the epoch from which to deduce the history of the modern science of international law'. It 'continued to form the basis of the conventional law of Europe' until the French Revolution. It closed the age of Grotius, and coincided with the foundation of 'the new school of public jurists, his disciples and successors in Holland and Germany. The peace completed the code of the public law of the empire, which thus became a science diligently cultivated in the German universities, and which contributed to advance the general science of European public law. It also marks the epoch of the firm establishment of permanent legations, by which the pacific relations of the European states have been since maintained; and which, together with the appropriation of the widely diffused language of France, first to diplomatic intercourse, and subsequently to the discussions of international law, contributed to give a more practical character to the new science.'—*History of the Law of Nations* (1845), 69, 71-2.

course, the art of diplomacy, and, in the narrower, more precise and most exacting sphere of that art, the art of negotiating, must not be denied recognition for pertinacity and adroitness and a large measure of good intention.

The mere fact that permanent legations were accepted and approved was at once a consequence and a proof of the importance of the interests that were represented by them. Those interests grew as the several nations grew, and as their contact became more immediate and more vital to each. Throughout all this development, the gift of persuasive speech has continued to be a primary quality for the diplomatist. His function is to carry on political business, never against the interest of his own country, by personal intercourse and persuasive speech with foreign statesmen and other diplomatists. According to the testimony of Lord Lyons—an accomplished ambassador, and, at a critical juncture for this country and the United States of America, a highly successful one—‘the faculty of influencing others by conversation is the qualification peculiarly necessary to a diplomatist’;¹ and to this end, he added, ‘besides higher qualities’, quickness in observing, readiness in reply, tact and even good manners are of far greater use than much learning.

Broadening our view, we may think that Lord Augustus Loftus, in passing a eulogy on Lord Clarendon as Minister for Foreign Affairs, was almost ascribing to him the qualities of a perfectly equipped representative of the service of which he was himself an experienced and distinguished member. ‘Courteous and dignified, with charming manners, he won the regard and confidence of all with whom he came in contact. Firm and courageous, with consummate judgement, he was neither open to flattery nor to the influence of fear. He had a remarkable perspicacity and knowledge of human character,

¹ *Report* (1861), 442.

which, blended with that chivalry and disinterestedness which marked his character, rendered him one of the most popular, as he was one of the most able statesmen of the age.' ¹

Is there anything in all this to suggest that diplomacy must be Machiavellian? Machiavelli himself does not require that it be so, except in so far as human nature, in general, and the nature, more especially, of particular men and particular circumstances,² impel it to assume devices that have vulgarly taken name, rather than derived qualities, from one of the most powerful of all writers and thinkers. What Machiavelli did was to insist on prudence and efficiency. He would say, if to interpret him in brief—not from *The Prince* alone—be not impossible :

Be not deceived by mere appearance. Discover men, things, and conditions as they are. It may be that in deriding sentimentalism and emotionalism, in warring against uncalculating benevolence, in the conduct of public and international affairs, I shall seem to many to despise sentiment itself and all idealism—even I who love books, and cherish Dante, and rank him imperishably with the immortals of Greece and Rome. But the times are rough and full of strange mutations. Fidelity to bonds, and gratitude for services, let no man count on who would face the facts and seek security. Be not timid of counsel, nor slothful in execution. Thucydides and the ancient Romans (especially should I value Tacitus, although I comment on Titus Livius) have uttered their warnings and their rebuke: nor are men, nor the heavens, the sun, the elements altered from what of old they were, in their motion, their ordering and power. The maxim, 'Leave it to time', did not commend itself to the ancients. Be not too late. Uncontrolled forces there are; forces uncontrollable there may be. With these we must do our best to reckon.

¹ Loftus, *Diplomatic Reminiscences*, ii. ch. i.

² Machiavelli would have commended Montesquieu for his standard: 'Je n'ai point tiré mes principes de mes préjugés, mais de la nature des choses.'—(*De l'Esprit des Loix*: Preface.)

Men have been impelled by Necessity to achieve, with their hands and tongue, that excellence whereunto we see them by their labours to have been brought; and it behoves men to consider well the quality of the times always, for often the good or the evil that befalls is in no other wise to be explained than by the manner of the encounter of their proceedings with the times, and by their proceeding conformably to them, or not conformably. Fortuna is fickle and mysterious. But, where she cannot be humoured, by weaving her webs, and by not breaking them,¹ then, like a jade, she may by strength and decisiveness be mastered. Be not over-scrupulous, with fine sensibility of conscience, when conditions are adverse, and when to lose time is to miss success. Do not resolve on the end until you are assured it is that which reason and interest—cool judgement—enjoin. But, when you have so resolved, command the means. Not without cause the voice of the people, in the things of their knowledge, is likened to the voice of God²; yet the ills of a people may have to be cured by the Prince by remedies sharp and strong and seemingly cruel. In my work, *The Prince*, intended for a special set of circumstances, and confirmed, amplified, and proportioned by my *Discourses* and other of my writings in many places—in that, my little gift to The Magnificent Lorenzo di Piero de' Medici, with what motive fashioned men after me may inquire and not agree—I have said what will, I do not doubt, be charged against me as preaching sin, when I was merely warning my fellow-men—‘fellow-Christians’ I will not say—against committing mistakes. And yet all that I have meant to enjoin on men, and on my own countrymen first, for their good, is hidden away in these words I wrote to my friend, Francesco Vettori,³ Ambassador at Rome: ‘When

¹ *Discorsi*, ii. 29; *Il Principe*, 25.

² *Discorsi*, i. 58.

³ For Machiavelli's correspondence with Vettori, see Villari, *Machiavelli*, iii. 191–216. ‘In the correspondence of Guicciardini and his other contemporaries, we only descry the writer's real mind as though through the folds of a thick veil; for all these men merely described and analysed that which they did, never that which they felt. Machiavelli showed a fuller self-consciousness, a livelier need of opening his soul; therefore—rarely as he spoke of himself—his letters afford us the first really clear manifestation

I see a man commit one capital error, I have a right to assume he may commit a thousand; for names do not impose on me, and in such cases I never yield except to the authority of reason.'

We may recall Bacon's protest against those who object too much, consult too long, adventure too high, and seldom drive 'business home.'¹ Add to that the following from *The Jew of Malta*:²

of the modern spirit.' 192. 'Machiavelli's real life was all in his intellect; there lay the true source of his greatness. His predominating mental gift and that in which he outstripped his contemporaries, was a singular power of piercing to the innermost kernel of historical and social facts.'—*Ibid.* iv. 434.

¹ It should not be necessary to say that Bacon's worldly wisdom—for example, in the *Essays* (in part, even as Montaigne, 'ie suis moy mesme la matiere de mon livre'), in the second book of *The Advancement of Learning*, and in his *Commentarius Solutus*—is saturated with the influence of Machiavelli. 'Concerning government, it is a part of knowledge secret and retired in both these respects in which things are deemed secret; for some things are secret because they are hard to know, and some because they are not fit to utter.'—*Adv. of L.*, II. xxiii. 47. 'And experience showeth, there are few men so true to themselves and so settled, but that, sometimes upon heat, sometimes upon bravery, sometimes upon kindness, sometimes upon trouble of mind and weakness, they open themselves; specially if they be put to it with a counter-dissimulation, according to the proverb of Spain, "*Di mentira, y sacaras verdad*: Tell a lie and find a truth".'—II. xxiii. 18.

² Written between 1588 and 1592. In the Prologue Machiavelli speaks:

I count religion but a childish toy
And hold there is no sin but ignorance.'

Shakespeare, in *Henry the Sixth*, twice, by anachronism, makes use of the conception of Machiavelli current in his age: in Part I, Act v, sc. 4, *York*: 'Alençon, that notorious Machiavel'; in Part III, Act iii, sc. 2, *Gloucester* (soliloquising):

'Why, I can smile, and murder while I smile,
And cry, "Content", to that which grieves my heart,

‘Be ruled by me, for in extremity
We ought to make bar of no policy.’¹

To these add this aphorism from Machiavelli’s equally sagacious, and almost equally learned and able, countryman and contemporary, Guicciardini—an aphorism supported by words from Thucydides, Polybius, Lucan, and others, and by citation of a lesson from History: ‘The vicissitude of things and change of times, begets new counsailes and deliberations in States, and enforceth necessarily the knitting or dissolving of Alliance between them. What is usefull to day, may be hurtfull to morrow, as showers that are seasonable in the Spring, and unwelcome in the Harvest. Wherefore, to temporise by levelling and adapting our actions to the occasion present and presented, is requisite policy.’² Gather these *sententiae*; or

And wet my cheeks with artificial tears,
And frame my face to all occasions.

I’ll play the orator as well as Nestor,

I can add colours to the chameleon,
Change shapes with Proteus for advantages,
And set the murd’rous Machiavel to school.

‘Noe times have bene without badd men’, wrote Spenser, in *A View of the Present State of Ireland* (Globe ed. (1890), 675); and its author, as became a representative Elizabethan, was not without knowledge and appreciation of the ‘rugged brow of carefull Policy’ of a Christopher Hatton, a Francis Walsingham, the Lord Burleigh, and others. In places unexpected and expected one comes upon evidence of the use made of Machiavelli’s name within the century following the publication of *The Prince*. In a record of the Star Chamber for 1595 a scoundrel and turncoat is described as ‘a most palpable Machiavellian’ (cited by Cheyney, *A History of England from the Defeat of the Armada to the Death of Elizabeth*, (1914), i. 141).

¹ *Barabas*, Act i. sc. 2.

² *Aphorismes Civill and Militarie . . . out of the first Quarterne of Fr. Guicciardine* (R. Dallington), 2nd ed., 1629, 316–17. See also *Counsels and Reflections of Francesco Guicciardini*, translated from the Italian by Ninian Hill Thomson, 1890, c.g. Nos. 6, 30 (Fortuna: ‘Whoso well considers

even transmute and dilute them so that they become little more than commonplaces in thought in relation to action: and there is no need to make special and pre-eminent appeal to Machiavelli. Rather should we venture to say this, that much of the undoubted 'Machiavellianism' in diplomacy—before as well as after Machiavelli—would never have been called for, had Machiavelli's own injunction been complied with: Examine well and master betimes the elements in the situation, know your mind, and be decisive: it is only on occasion that you need temporize. Had there been more of Machiavellism, there would have been less that is Machiavellian.

it will scarce deny that in human affairs Fortune rules supreme. . . . And though discernment and vigilance may temper many things, they cannot do so unhelped, but stand always in need of favourable Fortune'); 41, 48 ('States cannot be established or maintained by conforming to the moral law'); 76 (cf. 336), 78, 109 (freedom, security and 'self-government'); 140 ('the people'—'a beast, mad, mistaken, perplexed, without taste, discernment, or stability': cf. 345); and 147 ('He mistakes who thinks the success of an enterprise to depend on whether it be just or not. For every day we have proof to the contrary, and that it is not the justice of a cause, but prudence, strength, and good fortune that give the victory. It is doubtless true that in him who has right on his side there is often bred a firm confidence, founded on the belief that God will favour the righteous cause, which makes him bold and stubborn, and that from this boldness and stubbornness victories do sometimes follow. In this way it may now and then indirectly help you that your cause is just. But it is a mistake to suppose that directly any such effect is produced.' Cf. 92: 'Never say God has prospered this man because he is good, or that another has been unprosperous because he is wicked. For we often see the contrary happen. Yet are we not therefore to pronounce that the justice of God falls short, since His counsels are so deep as rightly to be spoken of as unfathomable.') For an estimate of Guicciardini, and a comparison of him with Machiavelli, see Villari's *Machiavelli and his Times*, iii. 236-63. Regarding Guicciardini's *Ricordi politici e civili* Villari says, 'It would be hard anywhere in modern literature to find another series of maxims and sentences revealing, as this does, the whole political and moral structure, not of one individual only, but of an entire century', 257.

The need and opportunity for subterfuge and chicanery, fencing and finessing, are greater in international policy than in the conduct of domestic. The very function of a nation's laws is to mediate between interests, and even to establish a concord of interests, within one body politic. But in the case of the international system we assume the existence and force of the interests of the units—the several States; and there has not been established an international constitution, with an authority that shall superintend, mediate, and be sovereign. The formula of a 'balance of power' was often and for a long time spaciouly applied, and can still be, even while it might be interpreted, in the official language of French diplomacy, according to one's own views and special interests.¹ But it is a formula that testifies, in itself, both to the deep-rooted rivalry of interests among the Powers, and to the absence of a duly-constituted authority for regulating those interests. In the words of Bolingbroke,² the scales of the balance could never be exactly poised. The Primacy of the

¹ 'L'équilibre de pouvoir en Europe est le mot de ralliement qui réunit dans un même concert de mesures, quoique par des motifs fort différents, les cours de Vienne et de Londres, les États généraux des Provinces-Unies et la plupart des princes d'Allemagne. Quoique cet équilibre soit, à dire vrai, une chose de pure opinion que chacun interprète suivant ses vues et ses intérêts particuliers, il a cependant toujours servi de prétexte et de mobile aux ligues qui, depuis près de quatre-vingts ans, se sont formées et renouvelées contre la France. L'Angleterre et la Hollande, qui se croient spécialement intéressées au maintien de cet équilibre de pouvoir, regardent la cour de Vienne comme la seule puissance qui, aidée de leurs secours, soit en état de contre-balancer les forces de la maison de Bourbon.'—*Recueil des Instructions* . . . : *Autriche*, 310–11 (September 14, 1750). Cf. 330; and the Instructions from 1757 on the effects of 'the change of system'—'the diplomatic revolution'—of 1756. 'En s'unissant étroitement à la cour de Vienne, on peut dire que le Roi a changé le système politique de l'Europe', 356.

² *Letters on History*, No. 8.

Powers and the European Concert of the nineteenth century were, in like manner, only secondary and conditional expedients—the second best, and not a bashful one, in the accepted absence, at a distance, of the best desirable.¹ The ‘Concert of Europe’ has often been made use of as a fiction to cloak the mutual jealousy and enmity of the Powers. If there was something of despair, there was also much that was robustly British and healthy in Canning’s exclamation in 1823: ‘Things are getting back to a wholesome state again. Every nation for itself, and God for us all!’ It is possible, as has been said,² to agree with both sentiments at the same time. There ceased to be any European law, such as was projected in the Treaties of Vienna in 1815, to which the weaker States could appeal in defence of right as against the might of the stronger. It was aptly observed by Prince Gortschakoff on the occasion of the Schleswig-Holstein dispute, ‘qu’il n’y a plus d’Europe’.³

In the vigorous era of diplomacy, during the seventeenth and the eighteenth century, diplomatists, accredited to

¹ ‘The system of preserving some equilibrium of power,—of preserving any state from becoming too great for her neighbours, is a system purely defensive, and directed towards the object of universal preservation. It is a system which provides for the security of all states by balancing the force and opposing the interests of great ones. The independence of nations is the end, the balance of power is only the means. To destroy independent nations, in order to strengthen the balance of power, is a most extravagant sacrifice of the end to the means. . . . In truth, the Balancing system is itself only a secondary guard of national independence. The paramount principle . . . is national spirit. . . . The Congress of Vienna seems, indeed, to have adopted every part of the French system, except that they have transferred the dictatorship of Europe from an individual to a triumvirate.’—Sir James Mackintosh, Speech on the Annexation of Genoa to the Kingdom of Sardinia, April 27, 1815, *Miscellaneous Works* (1851), 708–9.

² Bernard, *Four Lectures on Diplomacy* (1868), 96.

³ Loftus, *Diplomatic Reminiscences*, 1. ch. xxi.

foreign Courts and capitals, were by conditions constrained to be more politic, procrastinating, prevaricating than in our own day. There was an ample supply of 'instructions'—general and specific, initial and supplementary, royal and ministerial; and these two last were at times, and in a notable instance, irreconcilable. But time and space were then so far from having been overcome that ambassadors had, in many emergencies, to act at their own discretion, to temporize, and make false or merely conditional promises: they had to wait until explicit orders came to them from their Government or their royal master, or from both, thus making explanations necessary, and, it might be, a fresh line of action, a new plan of campaign.¹ We have an impressive illustration in the history

¹ The obstacles imposed by distance upon the rapid transmission of reports and communication of instructions must never be omitted in an estimate of diplomacy before the nineteenth century, and of its 'manœuvres machiavéliques' (Note du Comte de Ségur pour le Prince de Nassau, Pétersbourg, January 31, 1789: *Instructions: Russie*, ii. 453). 'L'éloignement de Pétersbourg à Versailles étant trop grand pour qu'on puisse toujours recevoir des instructions précises au moment où il seroit convenable dans certaines circonstances, il faut en profiter avec sagesse,' *Instructions: Russie*, ii. 335 (November 21, 1777). Cf. i. 485: 'Si des incidents imprévus et qu'il faut ensevelir dans le silence, si une conduite quelquefois peu régulière de la part de nos ministres que l'éloignement ne nous permettoit pas de guider, ont paru apporter quelque refroidissement entre les deux cours . . .' (December 1747). Cf. i. 320, ii. 184. The third Lord Malmesbury, editor of the *Diaries and Correspondence* of James Harris, the first Earl, has said (iv. 417): 'The difference of character between old and modern diplomacy fostered his disposition to assume responsibility, and seek the most laborious and hopeless missions; for when the European Capitals were, in point of communication with England, at treble the distance at which they now [1844] stand, the resident Minister had necessarily far greater latitude and scope for action, and was constantly obliged and expected to trust to his own judgment, when instructions were beyond his reach.' Harris, writing in July 1779 from Petersburg to Morton Eden at Copenhagen, said: '. . . You will see the difficult and

of the diplomacy of our own country in the early part of the nineteenth century. Stratford Canning, Minister Plenipotentiary at Constantinople, received from the Foreign Minister and the Under-Secretary between 1810 and 1812 sixteen dispatches, and not one of them had any direct and immediate bearing on the troublesome and momentous negotiations which he was conducting at the Porte at the time.¹

The telegraph² has very greatly increased the importance of the Foreign Office of the several States alike in the initiation, in the development and in the control of diplomacy. It has lessened both the difficulties and the independent value of the

delicate task I have to perform, particularly (speaking still most confidentially) as I am *without a single instruction from home*, i. (2nd ed., 1845) 209. Cf. dispatch from Harris at Petersburg to Viscount Weymouth, Secretary of State (northern department), September 9-20, 1779: 'If on reading the following lines it should appear that I have not entirely met the ideas of His Majesty and of his confidential servants; that I have given too great a latitude to my full powers, and not entirely fulfilled the principal object of my mission; I must entreat your Lordship to believe that I should not have ventured to have taken, on so important a subject, so much on myself, if it had not seemed to me that the exigencies of the times required unusual efforts,' i. (2nd ed.) 211.

¹ The Earl of Malmesbury, in his *Memoirs of an Ex-Minister*, writing, February 23, 1852, of Sir Stratford Canning—later, Viscount Stratford de Redcliffe—with reference to Lord Derby sounding him in 1851 about taking the Foreign Office, said: 'His talents are beyond dispute, but his temper is so despotic and irritable, that he can only display them in a peculiar kind of diplomacy. He managed the Turks in their own way, and it was Sultan *versus* Sultan.' He was Ambassador at Constantinople from 1825 to 1828 and again from 1841 to 1858, including one period of absence of two years, and one of seven months.

² 'This age of rapid communication, of what I would call the telegraphic demoralisation of those who formerly had to act for themselves and are now content to be at the end of the wire.'—Sir Horace Rumbold (sometime H.M. Ambassador at Vienna), *Recollections of a Diplomatist*, 2 vols. (1902), i. 111-112. See also ii. 242.

intermediaries, and by doing so it has led to an increase of steadiness, of continuity and of general reliability in the conduct of foreign affairs. All that is to the good. But telegraphic advice may also at times be obscure and misleading. We should, moreover, be going against the recorded testimony of ambassadors of the nineteenth century themselves, if we were to conclude that the need for judgement and discretion—for acting on the spot in the right way at the right time—has been lessened thereby, that there has been much lessening of the sense of responsibility, or that the Foreign Office and the telegraph can ever take the place of personal intercourse with the Sovereign abroad and his representatives.¹

With regard to diplomatic morality and the factors making for success in diplomacy, opinions differ. The first Earl Grey professed himself a great lover of morality, but 'the intercourse of nations cannot', he said, 'be strictly regulated by that rule'.² 'If they lie to you', said Louis XI to two of his envoys, 'you lie still more to them'.³ Metternich, regarding whose capacity for lying Napoleon was in no doubt, has recorded in his Autobiographical Memoir that he had never been afraid of succumbing morally. In an attempt to propound in a few principles the meaning of politics and diplomacy, he

¹ See Appendix, pp. 251-3. See also *First Report from the Select Committee on Diplomatic and Consular Services*: Commons Papers, 1871, vii. 197, p. xiv.

² Acton, Introduction to Burd, *Il Principe*, xxvii. 'By plausible and blameless paths men are drawn to the doctrine of the justice of History, of judgment by results, the nursling of the nineteenth century, from which a sharp incline leads to *The Prince*,' xxvi-xxvii.

³ Cf. the following from a letter describing a stage in the tortuous negotiations that led to the Treaty of Troyes: 'Cirtes alle the ambassadors, that we dele wyth, ben yncongrue, that is to say, yn olde maner of speche in England, "they ben double and fals:" whyth whiche maner of men I prey God lete neuer no trew mon be coupled with'.—Ellis, *Original Letters* (2nd series, 1827), i. 77.

characterized the modern world, in distinction from the ancient, by the tendency of nations to draw near to each other, and to enter into some form of league resting on the same basis as the great Christian society of men; and that basis is 'the precept of the Book of books, "Do unto others as ye would they should do unto you."' Accordingly, the main task of politics in his age seemed to him to be to establish international relations upon a basis of genuine reciprocity under the guarantee of respect for established rights and the conscientious observance of contracts. Such was the science of politics, according to one who was *fin*, *faux*, and *fanfaron*; and diplomacy was the art and daily application of the science.¹ When Count Buol Schauenstein retired from the office of Foreign Minister in Austria, Metternich's strongest recommendation of Count Rechberg as successor consisted in the formula that he was 'a pupil of his school'. Lord Augustus Loftus doubted whether the recommendation would have the weight with Lord Palmerston which was attached to it by the venerable Prince.

In a chapter² which it is difficult to reconcile in tone and purpose with the Preface of his great work, Grotius admits a wide latitude to 'amphibologies', and, although he disallows them where the 'honour of God', or charity toward our neighbour, or reverence toward superiors, or the making of contracts, or 'the nature of the thing itself' of which we treat, requires a clear unmasking of ourselves, he is manifestly troubled by the discord between word and deed in the affairs of men, and by the fact that mendacity has been a frequent instrument and support of success.³ In a less awkward and

¹ *Memoirs of Prince Metternich*, translated by Mrs. Alexander Napier, i. 36-8.

² *De Iure Belli ac Pacis*, iii. c. 1.

³ Spinoza, in his *Tractatus Theologico-Politicus*, published in 1670—forty-

less equivocal treatment of this subject, Vattel¹ starts impeccably from the position that good faith consists not only in the observance of promises, but also in not deceiving on any occasions that put us under any obligation to speak the truth; he throws over those writers, 'especially divines', who have made of truth a kind of deity, to which for its own sake, and without regard to consequences, we owe an inviolable respect; and he commends and takes his stand with those philosophers of 'more accurate ideas and more profound penetration' who acknowledge that truth, as the soul of human society, is in general to be respected, being the very basis of confidence in the mutual intercourse of men, but who ground the respect due to it on its effects. The word 'lies', accordingly, is to be given only to the words of him who speaks contrary to his

five years after the *De Iure Belli ac Pacis*—reasons from experience to the conditional nature of the sanctity of international compacts. Such contracts are valid as long as their basis of danger or of advantage holds, inasmuch as no one enters into an engagement, or is bound to stand by his compacts, unless there be a hope of some good to result, or the fear of some evil: remove this basis, and the compact becomes void; and this has been abundantly shown by experience ('... quippe nemo contrahit, nec pactis stare tenetur, nisi spe alicuius boni, vel sollicitudine alicuius mali: quod fundamentum si tollatur pactum ex sese tollitur; quod etiam experientia satis superque docet'). For, although different States agree among themselves not to do injury to each other, they take all possible precautions to prevent such agreements from being broken by the stronger party, and they do not rely upon the words of the compact ('nec fidem dictis habent'), unless it is clearly to the interest of both parties to observe it ('nisi utriusque ad contrahendum finem et utilitatem satis perspectam habuerint'). Otherwise they would fear a breach of faith; nor would there be wrong done. For what man of sense, who takes account of the right of sovereign powers, would put his trust in the promises of him who has both the will and the power to do what he likes, and who recognizes no higher law than the safety and interest of his dominion? ('cui sui imperii salus et utilitas summa lex debet esse')—c. xvi.

¹ Bk. III, ch. x.

thoughts, on occasions when there rests on him an obligation to speak the truth. The word 'falsiloquy' (*falsiloquium*) is to be used of a false discourse to persons who have no right to insist on our telling them the truth in a particular case.

'Mon grand art, s'il m'est permis de me citer, est de paroître simple et vrai. Je me pique de posséder cette dernière qualité ; cependant vous connoissez ma manière de manœuvrer, vous m'avez suivi pas à pas, imitez-moi donc.' Thus did a French ambassador to Vienna in 1717 instruct the secretary to the embassy who was temporarily left in charge.¹ Sir Robert Walpole, a master-worker of large visible results by means of little positive action, asked Lord Stanhope to remember that 'in England the manner of doing things is often more to be regarded than the thing is itself'.² Lord Stanhope, the immediate and distinguished precursor of the still more brilliant Carteret in the conduct of foreign affairs and international diplomacy, used to say, according to Lady Mary Montagu,³

¹ Le comte du Luc to M. du Bourg : *Recueil des Instructions : Autriche*, 192-3. Du Luc in his *Mémoire concernant l'Ambassade de Vienne* writes incisively of ministers near the Emperor : 'Le prince de Trautson . . . me paroît un bonhomme, mais d'un génie assez borné. Sa femme le gouverne.' Le comte de Starhemberg : 'Je le tiens le plus capable de tous les ministres de cette cour ; mais il veut s'enrichir, quoiqu'il ait déjà des biens immenses. C'est là son but principal.' 'Le comte de Zinzendorf est chancelier d'Autriche. . . Il est bonhomme ; il voudroit faire plaisir, mais il ne finit rien. J'ai lieu de croire qu'il n'est pas parfaitement instruit. Il suit l'ancien esprit de sa cour. Son tempérament le porte à éluder toute conclusion pour s'épargner de la fatigue et jouir uniquement de la vie qu'il aime et dont il fait usage. Sa table est sans contredit la meilleure et la plus délicate de Vienne.'—*Ibid.*, 164, foot-note.

² Robert Walpole to Secretary Stanhope, January 1/12, 1717, on the occasion of Townshend's removal from office. Coxe, *Memoirs of . . . Walpole* (1798), ii. 163.

³ Quoted by Lecky, *History of England in the Eighteenth Century*, Cabinet ed., i. 369-70, foot-note.

that during his ministry he 'always imposed on the foreign ministers by telling them the naked truth'. Thinking it impossible that the truth should come from the mouth of a statesman, 'they never failed to write information to their respective Courts directly contrary to the assurances he gave them'. Lord Palmerston, at the beginning of the session of 1848, found the formula for the guidance of British Ministers in the expression of Canning, that with each of them the 'interests' of his own country ought to be 'the shibboleth of his policy'.¹ In his intercourse with the Ministers of other States he had desired a certain measure of personal freedom, as he claimed in the notable letter in which he gave an account of the circumstances of his dismissal from the charge of the Foreign Office in 1851: in such intercourse the Foreign Minister could not always act merely as the organ of a previously consulted Cabinet.² That the measure of freedom he claimed and exercised had results of the kind that he approved is clear from his declaration to his biographer, that he occasionally found that foreign ministers 'had been deceived by the open manner in which he told them the truth'. 'They went away convinced that so skilful and experienced a diplomatist could not possibly be so frank as he appeared, and, imagining some deep design in his words, acted on their own idea of what he really meant, and so misled their own selves.'³ 'In politics, in stormy times', said Ségur, writing of Louis XV's secret correspondence, 'true dexterity consists in courageous good faith'; it is by character, frankness and sincerity that durable

¹ Ashley, *Life of Palmerston*, i. 63.

² *Ibid.*, i. 314. In a speech of self-defence, he asked: 'Is Her Majesty's Minister to sit like a dolt, when a Foreign Ambassador converses on some great event, without giving him any answer or making any observation?'—Malmesbury, *Memoirs of an Ex-Minister*, under date February 3, 1852.

³ Ashley, ii. 301.

success is won.¹ According to the first Lord Malmesbury—the guardian of Palmerston, who in turn became the guardian

¹ ‘En politique, dans les temps d’orage, la bonne foi courageuse est la véritable habileté; le caractère touche le but que l’esprit manque; la franchise sauve des écueils où la finesse échoue, et la sincérité ferme peut seule donner, ou la solidité dans les succès, ou la gloire dans le malheur.’—*Politique de tous les Cabinets* (3rd ed., 1802), i. 87, Ségur’s note. Ségur’s contributions to this work are rich in lessons for the understanding of motives and ends in policy. ‘Un Politique, à Paris, ne doit se faire ni Espagnol, ni Anglais, ni Autrichien, ni Prussien, ni Russe, ni Turc; il doit être Français, et calculer les intérêts de son pays et les Alliances qui lui conviennent, selon les temps, la force respective des Puissances étrangères, et, surtout, selon le génie de ceux qui les conduisent.’—*Ibid.* i. 19 (cf. iii. 368). ‘Il est parfaitement inutile de chercher quelles peuvent être les causes de la haine qui divise les peuples. A la honte de l’humanité, toutes les nations du globe se haïssent entr’elles, d’autant plus qu’elles sont plus voisines l’une de l’autre. Les Suédois détestent les Danois et les Russes; ceux-ci haïssent les Turcs et les Allemands; les Allemands, les Français, les Anglais se jaloussent et se blâment réciproquement; on l’éprouve dans toutes les coalitions: aussi ce sont des mariages que suit promptement le divorce. Un intérêt momentané les unit, une jalousie constante les sépare. Le patriotisme même, si nécessaire, n’est qu’un égoïsme politique, d’autant plus indestructible, que l’intérêt de chaque nation l’érige en vertu.’—ii. 281. ‘On dédaigne la politique; on la croit inutile; on la critique sans examen; on la confonde avec l’intrigue; on oublie que tous les états de l’Europe sont encore loin d’embrasser nos principes; on oublie que, tant que les princes auront des passions, la politique existera, comme la médecine et la jurisprudence existeront, tant qu’il y aura des maladies et des crimes. Il existe donc une politique nécessaire. Je conviens que celle d’une nation libre et éclairée ne doit point ressembler à la politique insidieuse, intrigante, corruptrice des princes conquérans et des peuples esclaves. La politique des Français doit se borner à conserver la paix tant qu’ils le pourront avec sûreté, et à pacifier leurs voisins, pour ne pas être entraînés dans leurs querelles. Cette noble et simple politique, digne de notre constitution, rendra les fonctions de nos ambassadeurs plus augustes, plus sacrées; mais elles seront encore difficiles; elles exigeront encore beaucoup de prudence, d’habileté, d’adresse.’—ii. 332. ‘. . . un code très-imparfait, nommé *droit des gens*, code perpétuellement éludé par l’adresse ou violé

of the third Lord Malmesbury,¹ to whom reference has already been made—‘no occasion, no provocation, no anxiety to rebut an unjust accusation, no idea, however tempting, of promoting the object you have in view, can *need*, much less justify, a *falsehood*. Success obtained by one, is a precarious and baseless success. Detection would ruin, not only your own reputation for ever, but deeply wound the honour of your Court. If, as frequently happens, an indiscreet question, which seems to require a distinct answer, is put to you abruptly by an artful Minister, parry it either by treating it as an indiscreet question, or get rid of it by a grave and serious look ; but on no account contradict the assertion flatly if it be true, or admit it as true, if false and of a dangerous tendency.’²

par la force, et qui n'est au fond qu'une collection de traités souvent contradictoires que les vainqueurs dictent aux vaincus, qui sont respectés tant que dure la lassitude de la guerre, et que rompt l'ambition, dès que les circonstances offrent une chance favorable à son avidité.'—iii. 373. 'Les affaires sont conduites par les hommes ; les hommes sont plus souvent égarés par les passions qu'éclairés par la justice. La politique ne peut être fixe, puisque sa direction varie suivant les caractères des hommes placés par le sort à la tête des gouvernements. Il faut donc établir le système fédératif sur des bases morales, et non sur des bases géographiques.' iii. 377–8.

¹ Editor of the *Diaries and Correspondence* of the first Earl. In his own *Memoirs of an Ex-Minister*, under date March 11, 1852, he alludes to the staff of the Foreign Office being surprised at his knowing the routine work when he was appointed Foreign Secretary. This equipment he attributes to his preparation of his grandfather's *Diaries and Correspondence* for publication. During two years he had gone through more than two thousand dispatches to ministers at home, and to brother-diplomatists abroad, just as if he had been an Under-Secretary at the Foreign Office for the forty years—1768–1809—which they covered, 'arranging and collating them, and investigating their contemporary history'.

² Letter, April 11, 1813, to Lord Camden, who had sought advice in the interest of his nephew 'destined for the foreign line', *Diaries and Correspondence*, iv. 414. This letter is given in full in the Appendix below, pp. 234–6.

We are perhaps reduced to the half-cynical maxim and device of Torcy, that the best way of deceiving foreign Courts is always to speak the truth. Or, are we led to some *via media*, in the words of advice of a senior in diplomacy to a junior : 'Take snuff often and slowly, sit with your back to the light,¹ and speak the truth ; the rest you will learn by observing your older colleagues' ?² Does that really mean to seniors priority in niceties of conduct that shall not be Machiavellian, as well as in resolute avoidance of the mixture of a lie which, Bacon tells us, doth ever add pleasure ? Halifax's 'Trimmer' ³ adored the goddess Truth and all who worshipped her, but

¹ The Emperor Charles V, according to the picture of him drawn by Sir Richard Moryson, October 7, 1552, had little need to adopt this device : 'And yet hath he a face, that is as unwont to disclose any hid affection of his heart, as any face that ever I met withal in my life ; for there all white colours which, in changing themselves, are wont in others to bring a man certain word, how his errand is liked or disliked, have no place in his countenance ; his eyes only do bewray as much as can be picked out of him. He maketh me oft think of Solomon's saying : Heaven is high, the earth is deep, a king's heart is unsearchable ; there is in him almost nothing that speaketh, besides his tongue.'—Sir Richard Moryson to the Lords of Council, Hardwicke, *Miscellaneous State Papers* (1778), i. 51. William I, King of Prussia, who became German Emperor, did not satisfy this canon of kingcraft. 'The King told me an untruth to-day', said Bismarck on November 29, 1870 : 'I asked him if the bombardment' of Paris 'was not to commence, and he replied that he had ordered it. But I knew immediately that that was not true. I know him. He cannot lie, or at least not in such a way that it cannot be detected. He at once changes colour, and it was particularly noticeable when he replied to my question to-day. When I looked at him straight into his eyes he could not stand it.'—Busch, *Bismarck* (1898), i. 337.

² Kolle, *Betrachtungen über Diplomatie*, 278, quoted by Bernard, 149.

³ For a short statement of the use of the word by Halifax see his Preface to *The Character of a Trimmer* : '... there is a third Opinion of those, who conceive it would do as well, if the Boat went even, without endangering the Passengers.'

he lamented that in all ages she had been scurvily used, and that of late she had become such a ruining virtue that mankind seemed to be agreed to commend it and to avoid it.¹

If we were asked to point to an illustration of the normal advice uttered for the general conduct of the weighty matters of international policy, we might instance the words of Palmerston to Malmesbury when the latter became Foreign Secretary. After warning him very impressively of the power which this country owes to her prestige, he continued : ‘ All the Foreign Ministers will try at first to get objects which they have been refused by successive Governments ; so take care you yield nothing until you have well looked into every side of the question. When the *diplomates* call, do not be too reserved but preface your observations by stating that what you say is *officious*.’² Is it normal advice ? In the sense that it enjoins a looking to right and to left and all round, the advice is normal.

In a less scant treatment of our subject, we should have attempted a more precise differentiation of diplomacy and analysis of its kinds, not after the manner of the international lawyer, but for historical study and political appreciation—such as the diplomacy of courtesy and of rudeness, the diplomacy of frankness, of cynicism and deceit, the diplomacy of forcefulness and of irresolution, of a weak benevolence and a slothful overtrust and inertia.

The diplomacy of courtesy we may illustrate from the letter written by President Tyler of the United States of America

¹ *Ibid.* (ed. 1699), 95.

² *Memoirs of an Ex-Minister*, under date March 11, 1852. An ‘ *officious* ’ conversation is ‘ the free interchange of opinions between the two Ministers, and compromises neither ’ ; an ‘ *official* ’ correspondence would do so, and would bind their Governments. Lord Malmesbury tells us that when he was at the Foreign Office he always prefaced a conversation by saying on which footing it was to be understood. *Memoirs*, under date February 13, 1852, foot-note.

in 1843, when he approached the Chinese for the making of a treaty and for the same privileges as had just been accorded to the British in the Treaty of Nanking. The letter was the first communication addressed by Washington to Peking :

‘ I, John Tyler, President of the United States of America—which States are : Maine, . . . Michigan—send you this letter of peace and friendship, signed by my own hand.

‘ I hope your health is good. China is a great Empire, extending over a great part of the world. The Chinese are numerous. You have millions and millions of subjects. The twenty-six United States are as large as China, though our people are not as numerous. The rising sun looks upon the great mountains and rivers of China, when he sets upon rivers and mountains equally large in the United States. Our territories extend from one great ocean to the other ; and on the west we are divided from your dominions only by the sea. Leaving the mouth of one of our great rivers and going constantly towards the setting sun, we sail to Japan and the Yellow Sea.

‘ Now, my words are that the Governments of two such great countries should be at peace. It is proper and according to the rule of Heaven that they should respect one another and act wisely. I, therefore, send to your Court Caleb Cushing, one of the wise and learned men of this country. On his first arrival in China he will inquire for your health. He has strict orders to go to your great city of Peking, and there deliver this letter. He will have with him secretaries and interpreters.

‘ The Chinese love to trade with our people and to sell them tea and silk, for which our people pay silver, and sometimes other articles.¹ But if the Chinese and the Americans

¹ Tocqueville had written two or three years before : ‘ The American starts from Boston to go to purchase tea in China : he arrives at Canton, stays there a few days, and then returns. In less than two years he has sailed as far as the entire circumference of the globe, and he has seen land but once. It is true that during a voyage of eight or ten months he has drunk brackish water, and lived upon salt meat ; that he has been in a continual contest with the sea, with disease, and with a tedious existence ;

will trade, there shall be rules, so that they shall not break your laws or our laws. Our Minister Caleb Cushing is authorized to make a treaty to regulate trade. Let it be just. Let there be no unfair advantage on either side. Let the people trade not only at Canton, but also at Amoy, Ningpo, Shanghai, Foochow, and all other such places as may offer profitable exchanges both to China and the United States, provided they do not break your laws or our laws. We shall not take the part of evil-doers. We shall not uphold them that break your laws. Therefore, we doubt not that you will be pleased that our messenger of peace with this letter in his hand shall come to Peking and there deliver it; and that your great officers will by your order make a treaty with him not to disturb the peace between China and America. Let the treaty be signed by your own imperial hand. It shall be signed by mine, and by the authorities of our great council, the Senate.

‘And so may your health be good, and may peace reign. Written at Washington, this twelfth day of July, in the year of our Lord one thousand eight hundred and forty-three. Your good friend, [Seal].’

Among subordinate traits and qualities we may especially mention irony—a dangerous weapon in politics, whether we think of it as the ironical rudeness of a Bismarck¹ in his Circular

but, upon his return, he can sell a pound of his tea for a halfpenny less than the English merchant, and his purpose is accomplished.’—*De la Démocratie en Amérique*, translated by Reeve, with Preface and Notes by Spence, 1838 (New York), 404. Tocqueville concluded the chapter with a forecast of the maritime supremacy of the Anglo-Americans. ‘When I contemplate the ardour with which the Anglo-Americans prosecute commercial enterprise, the advantages which befriend them, and the success of their undertakings, I cannot refrain from believing that they will one day become the first maritime power of the globe. They are born to rule the seas, as the Romans were to conquer the globe.’—*Ibid.*, 408.

¹ Bismarck would, however, advise for a general rule: ‘Be polite but without irony. Write diplomatically. Even in a declaration of war one observes the rules of politeness.’—Busch, *Bismarck*, i. 246. ‘Be civil to the very last step of the gallows, but hang all the same.’—*Ibid.*, i. 321. Such expressions of opinion are, at least, of interest as coming from the

touching the Emperor Napoleon's visit to Salzburg in 1867, or the more highly polished Voltairean irony of Frederick II, of which one may instance, in particular, his letters to Louis XV just before the Christmas treaties of 1745, and the letter of Christmas Day of that year. To Frederick, who had himself been a doubtful ally, Louis, another doubtful ally, had written, in effect, according to Frederick: if misfortune should befall you, you have my promise that the Academy will deliver a funeral oration over your kingdom. In his letter of Christmas Day, Frederick said: ¹

‘I had expected some real help from your Majesty in consequence of my application in November last. I will not discuss the reasons you may have for leaving your allies to their own resources, but I feel happy that the valour of my troops has saved me from a critical situation. If I had been unfortunate, you would only have pitied me, and I should have been helpless. How can an alliance subsist, unless the two parties co-operate heartily towards the common end? You wish me to take counsel of my own wits: I obey. And they enjoin me to put an end at once to a war, which, as it has no object since the death of the Emperor, is merely causing a useless sacrifice of blood. I am told that it is time to think of my own safety; that a large force of Muscovites threatens my country; that fortune is fickle, and that I have no help of any kind to expect from my allies; . . . that after the letter I have just received from your Majesty, nothing is left but to sign peace,’

and to remain the most affectionate brother of his Most Christian Majesty. On the same day, in a communication

‘editor’ of the Ems telegram and the appraiser of his own handiwork at that crisis—probably beyond its due weight.

¹ *Histoire de mon Temps*, ch. xiv, towards the end; see also Tuttle, *History of Prussia under Frederick the Great*, 2 vols. (1888), ii. 50, for the slight variation between the version as given by Frederick and the letter as preserved in the French archives.

to Valori, the French Minister at Berlin, Frederick expressed his pleasure—his ‘consolation’—that he had ‘never received the alms of France’.

Illustrations of diplomacy—personal illustrations and illustrations of type—history furnishes in large number and impressive variety, and from many lands and nearly all times, whether we think of the intrigues and discussions preserved and improvised for us by the ancient classical historians, or of the rise of modern diplomacy in the city-states of Italy, or of the successes due to the prudence of Richelieu and the subtlety of Mazarin, or the cool and calculating policy of William III—Ranke’s man of true international nature—the brilliance and fragmentary triumph of a Carteret, the cynicism and wit of a Talleyrand.

Successful diplomacy in modern times—diplomacy sustained by political supports in well-considered relation to military equipment, and successful in, at least, its immediate practical purpose—has had no more cogent example than Bismarck; and Bismarck, as he once declared, was no doctrinaire in politics. In 1861 he outlined his programme to Disraeli—at a dinner in London. He expected, he said, to be called upon, in a short time, to undertake the direction of the Prussian Government. His first duty would be to reorganize the army. He would then seize the first really good pretext to declare war against Austria, to dissolve the German Diet, to overpower the middle and smaller states, and to give to Germany a national unity under the leadership of Prussia. Disraeli remarked, ‘Take care of that man; he means what he says’.¹ The programme was carried out to the letter. Do not let your diplomacy outrun your preparations. That was the burden of the charge brought by the elder Pitt against the incompetents at the outset of the Seven Years’ War. It is a maxim for all time in the conduct of foreign policy; and for Bismarck, with the plans

¹ Loftus, *Diplomatic Reminiscences*, i. ch. xvi.

he had formed, it was necessary to see that the preparation was continuous—that Prussia was always and increasingly prepared.

In the history of our own country—for we must not, in smug complacency and with a show of unctuous rectitude, merely look abroad for the marks of diplomacy—we might go for illustration of its sinister attributes to quarters where, perhaps, they are least expected. It has been claimed for Oliver Cromwell that he was ‘no Frederick the Great, who spoke of mankind as *diese verdammte Race*—that accursed tribe’: he belongs to ‘the rarer and nobler type of governing men who see the golden side, who count faith, pity, hope among the counsels of practical wisdom, and who for political power must ever seek a moral base’.¹ We should not be content with that character for the Protector even in his home policy; still less in his foreign policy. A knowledge of the diplomacy of 1654 is of itself sufficient to destroy the picture and discredit the artist. It used to be thought that Cromwell then stood forth as arbiter among the rulers of Europe, and, in particular, that the monarchs of France and Spain were suitors for his support.² Instead of this the facts show him courting France

¹ Morley, *Oliver Cromwell* (1900), 469. See, however, for qualification, p. 434 in the chapter on Foreign Policy: ‘Like every other great ruler in critical times and in a situation without a precedent, he was compelled to change alliances, weave fresh combinations, abandon to-day the ardent conception of yesterday.’ Lord Morley in his *Recollections* (1917) has made additional reservations in deference to the tyranny of circumstance.

² e.g. Frederic Harrison, *Oliver Cromwell* (1895), 221: ‘The history of England offers no such picture to national pride as when the kings and rulers of Europe courted, belauded, fawned on the farmer of Huntingdon.’ For a judicious estimate see Firth, *Oliver Cromwell* (1905)—the chapter on ‘Cromwell’s Foreign Policy’, and ‘The Epilogue’. ‘Looked at from one point of view, he seemed as practical as a commercial traveller; from another, a Puritan Don Quixote,’ 389. ‘Political inconsistency is generally attributed to dishonesty, and Cromwell’s dishonesty was open and palpable.’

and Spain alternately, 'constant only in his inconstancy'.¹ In April 1654 the Baron de Baas, a special agent of Mazarin, astonished Cromwell, at an audience, with the abundance and accuracy of his information regarding the Protector's designs and intrigues, and concluded with the ironical request that Cromwell would extricate him with honour from the labyrinth. Oliver's countenance, we are told, fell; the words came from his mouth more slowly than was his wont; and the interpreter,² after conveying a halting explanation of the words of the Protector, 'conveniently remembered that his Highness had an engagement which made it impossible to prolong the conversation, though he would be glad to resume it on a more fitting occasion'.³ At no other time in the history of England have the profession and the pursuit of an ideal in the conduct of foreign policy been so deeply and confusedly involved with material motive; and it was entanglement with the ideal that brought Cromwell to his gravest perils both in morality and in achievement. Be it added, in this connexion, that, although many of the facts and circumstances were unknown to the great royalist historian and statesman, Clarendon, in *The History of the Rebellion* we find the true discreet type of mind that is required for estimate of the interests that underlie the conduct of policy among nations; and Clarendon is appreciative of Cromwell's regard for such interests.⁴

But farther back still we might with advantage go—back as far, perhaps, as Henry VII for the lessons to be gathered from one who is unsurpassed among English kings and statesmen for combined sagacity and subtlety;⁵ back, certainly, to

¹ Gardiner, *History of the Commonwealth and Protectorate*, ii. (1897), 477.

² Baas spoke in French.

³ Gardiner, *op. cit.*, 437-8.

⁴ See, e.g. vii. (ed. 1736), 20-1, 24-6, 37.

⁵ Contemporary English writers, it has been said, were not adequately equipped for an appreciation of Henry VII, even in his home policy: they could not 'penetrate the veil of subtle statesmanship by which

Wolsey, master of diplomatic divagations; back, more especially, to that other Cromwell, whose manual of statecraft, according to his enemy, Cardinal Pole, was *The Prince* of Machiavelli. In Thomas Cromwell's letters diplomacy is revealed in its tortuousness, hardness, and relentlessness. Let us take a moderate example and an extreme personal case.

In October 1537 Cromwell wrote to Sir Thomas Wyatt directing him to sound the Emperor concerning the mediation which Henry VIII had proffered between Charles V and Francis I:

' . . . Your parte shal be nowe like a good oratour, both to set furthe the princely nature and inclynacion of his highnes with all dexterite, and soo to observe Themperours answers to the said overture and to the rest of the pointes in the same letteres expressed, as you may thereby fishe the botom of his stomake, and advertise his Majeste howe he standeth disposed towards him, and to the contynuanee of thamytie betwene them. . . . You must in your conference with themperour take occasion to speake of all those matiers, and soo frankly to speake of them as you may feale the depenes of his harte wherein you shall doo good service. . . . Gentle Maister Wiat nowe use all your wisdom rather to trye out howe themperour is disposed towards the kinges highnes, thenne to presse him anything to agre to the overture of mediacion if he woll not as gentilly embrace it as it is made freendly unto him. For to be plain with you thother parte declare him in wordes towards his Majeste to make only faire wether, and in his

a politic and peaceful, but watchful and suspicious king, was putting an end to the long reign of violence. It required the brain of an Italian'—a Polydore Vergil.—Gairdner, *Early Chroniclers*, 306. For diplomacy during the reign, see *Calendar of State Papers: Venice*, i, and *Spain*, i. Useful extracts from original authorities are given in Pollard, *The Reign of Henry VII from Contemporary Sources* (1913, 1914), i. and iii. 'No English statesman', it is claimed for Henry in his foreign policy, 'achieved so much at so small a cost'.—*Ibid.*, i. li. See also Wilhelm Busch, *England under the Tudors*, i. (transl. 1895), chh. i and iv.

harte dede and workes, to doo all that he canne to his graces dishonour, insomuche as they bost themselves to have refused some honest offres for themselves bicause they were knytt with vile and filthie conditions towards his Majeste. And if it be true it is pitye there shuld be such dissimulacion in suche a prince, and specially towards him, whom he ought of congruence all thinges considered to observe love and honour to his uttermost, if you thinke that the speaking of thise thinges unto him may be any meane to disciphre his very meanyng bolte them out of yourself as signified unto you by some of the Agentes of the Kinges highnes in Fraunce. And whenne you shal be in communication of thise matiers handle them with suche a plain franknes as youe may drawe sumwhat out, that percace resteth yet hidden undre a colored cloke of freendship or at the least manifest and make open that like a prince of honour he meanith as he pretendeth.' ¹

For the personal case, the following, from a letter, in September 1537, to Michael Throgmorton, when Thomas Cromwell wished to secure him as his agent at Rome against the intrigues of Cardinal Pole in Italy :

'... I myght better have judged, that so dishonest a maister, cowlde have but evyn suche servantes as youe ar. No, no, loyaltie and treason dwell seldome togethers. There can be no feithfull subject so long abide the sight of so haynous a traytour to his prince. Yow cowlde not all this season have byn a spie for the king, but at some tyme your cowntenance shuld have declared your harte to be loyall towards your prince. . . . Yow thinke youe doo goode servyce there to the kinges hieghnes ; forasmuche as yow now se thinges, that being absent, youe shulde not have seen, such verelye as might have done greate damage ; if youe hadde not seen them. Yow have bleared myn yee ones : your credite shall nevermore serve youe so farr, to deceyve me the second tyme. I take youe as youe ar.' ²

¹ Merriman, *Life and Letters of Thomas Cromwell* (1902), ii. 92-3. See also the letter of Cromwell to Wyatt, March 1, 1538, *ibid.* 122-5.

² *Ibid.*, ii. 87.

‘ You have bleared my eye once . . . I take you as you are.’
The words are worthy of Machiavelli.¹

There is no smooth and easy path for the conduct of international policy ; nor for its study. The fortunes of nations should not be left to the hazards of the unforeseen. Those who are responsible for guiding relations between States need a vast equipment in knowledge and in aptitude. They must know the resources, the constitution and manner of government, the treaty obligations, the character of the dominant personalities, the national temperament and national objects, both of their own State and of its connexions—sometimes unruly and suspicious connexions—in the Family of Nations. They must well consider the relation of means to ends. Here, without any doubt, there is need of eyes for the past, the present, and the future—need of the three eyes of prudence : memory, intelligence, providence. By these Fortuna is won. Of all the regions of politics there is no other of which it is so strictly true as of the international, that only the most complete knowledge and command available of all the factors should be allowed to count, whether for those who direct or for those in a succeeding age who try to judge them. There is often in History and Politics some ‘ one thing unknown ’ that is required as the key to all. Especially has that been true of policy between State and State.

It is not otherwise, in its own degree, with the study of foreign policy. As the work, so the study. Here, too, there is need of alertness, circumspection, sagacity. It is necessary to search

¹ See a letter to Thomas Cromwell from Stephen Vaughan—an agent of Cromwell at Antwerp, in London at the time of writing : an abject appeal for forgiveness for ‘ one onely fawte, the first and laste that ever I comytted against youe . . . not the unassurest or untrustiest of your frends. Yowe have sore abashed and astonyed me.’—Ellis, *Original Letters*, third series, ii. 215-16.

out and to estimate all the factors. But at the several crises of international relations, and in the decisive leading-up to them, it is the more particular factors, or general factors in particular forms, that are at work, and that are to be discovered, scrutinized, and estimated ; and here most of all in history it is necessary to get to the sources, and necessary at times to admit that the sources are not wholly adequate, because they have not been, and may never be, fully revealed. It is necessary also to remember that the sources are not in one land only, and that the tinctures are from mixed and varied soils. It is more than useless—it is culpably misleading—for a writer to take only one set of dispatches, or those of one State only, when he is expounding some development, or even a mere phase, in foreign policy. He must collate the dispatches of a State to several capitals, and set these against those of foreign Powers, on the question that is being considered. The inquirer, for example, into the immediate antecedents of ‘ the Diplomatic Revolution ’ of the eighteenth century will find, at the crisis of things towards the close of 1755, more to engage his attention at Petersburg than at London or Berlin, Paris or Vienna. The volumes of the French *Recueil des Instructions données aux Ambassadeurs et Ministres de France depuis les Traités de Westphalie jusqu’à la Révolution française*¹ afford an excellent opportunity for partial collation in the study of diplomacy, and for the exercise of historical caution.

Not least must the inquirer observe and faithfully report whether the dispatches and other official papers which he presents and builds upon are complete or merely fragmentary. Does he find, or can he himself divine, the ominous word ‘ extract ’ in the dispatches he reads ? Are the dispatches, as published, such as the late Lord Salisbury once described :

¹ ‘ Publié sous les auspices de la Commission des Archives diplomatiques au Ministère des Affaires Étrangères ’, 1884 and subsequent years.

'mere headless trunks of despatches, without heads or legs, and with a large hole run through the body'?¹ He must try to find out whether the 'most secret letters' that precede, accompany or follow even confidential dispatches are still available, and how far they explain what the dispatch has intentionally left partly hidden. Much remains; and for that he will have to go, not to speeches and writings of the day, whether officially inspired, independent or irresponsible—however helpful and necessary these may be for a knowledge of the general situation and an understanding of the psychology of a people—but to the most intimate revelations of the prime movers, and to private letters and journals of those who had the privilege of knowing, or to whom came the chance of hearing, with perhaps a fatal facility and imagination in describing. For material of this kind we have usually had to wait at least a generation after the time of the events themselves. Even then there may be the 'one thing unknown'. The admission should be less rare—and why churlish?—on the part of historical writers.²

Bismarck is reported to have said that diplomatic reports are little better than paper smeared with ink, if the object in view be the truth of things and possession of material for history. Even the dispatches that do contain information cannot be understood except by those who know the writers and the men and the things written about. One must know, he said, what a Gortschakoff, a Gladstone, or a Granville had in his mind when he made the statements that are reported in the dispatch.

¹ *Essays by the late Marquess of Salisbury: Foreign Politics* (1905), 210. The essay entitled 'Foreign Policy' appeared first in 1864.

² In this and the two preceding paragraphs I have made use of part of a pamphlet entitled *International Relations*, which I wrote in February 1916 for The Historical Association of Scotland, and which was reprinted for The Historical Association (of England).

It is to private letters and confidential communications and to verbal ones that we must look for information of the real influences at work. 'The Emperor of Russia, for instance, is on the whole very friendly to us—from tradition, for family reasons, and so on—and also the Grand Duchesse Hélène, who influences him and watches him on our behalf. The Empress, on the other hand, is not our friend. But that is only to be ascertained through confidential channels and not officially.'¹

The chief danger to be averted in the conduct of foreign policy is, as has already been said, that of allowing diplomacy to outrun preparations and the strength on which success in diplomacy must ultimately depend. If we turn our view inward upon the nation itself, we shall translate that formula without violence into the expression, that a nation must not acquire a reputation for inconstancy and caprice. In this part of our subject we might have been not unhappily spacious where we shall now be severely concise. We might cite well-known examples of the inconsistencies, arbitrariness, and excesses of the Athenian democracy in the realm of foreign affairs, and one might point in contrast to the impressive eulogy passed by Mommsen on the Roman Senate² in the

¹ Busch, i. 559–60, under February 22, 1871. Bismarck, speaking of his Frankfort experiences, said of Count Rechberg—Austrian Minister and President of the Diet at Frankfort—that he was at least honourable from a personal standpoint, although, as an Austrian diplomat of that time, he was not able to pay too strict a regard to truth. Rechberg once received a dispatch in which he was instructed to maintain cordial relations with Prussia, and a second dispatch, sent to him at the same time, in which an exactly opposite course was enjoined. Bismarck, calling on him, was inadvertently handed the second dispatch to read; begging Rechberg's pardon for having been given the wrong one, he consoled him with an assurance that he would take no advantage of the mistake, but would use it merely for his personal information. *Ibid.* i. 373.

² 'Called to power, not by the empty accident of birth, but substantially

days of its greatness amid grave problems for the State abroad, and, in turn, we might contrast that eulogy with the strictures pronounced by the Marquess Wellesley on the Spanish Junta as a political instrument.¹ But we do well to remember that politics as a study is apt to be made a playground of analogies, and we should come to no absolute judgement as to whether an autocracy, open or veiled, a bureaucracy, howsoever founded and inspired, or the moderated democracy is the best fitted for the conduct of foreign affairs. We should go back to our primary tests, and inquire who the people are we are considering, what is the work to be done, what the conditions.

We cannot by mere examples prove or disprove in such a matter as this. One will point to the cases of instability and untrustworthiness where parliamentary conditions have held sway. Another, with equal force, will warn us that a Frederick II required for Prussia a Frederick II as his successor, whereas there came not a Solomon but a Rehoboam.² A third will

by the free choice of the nation ; confirmed every fifth year by the stern moral judgement of the worthiest men ; holding office for life, and so not dependent on the expiration of its commission or on the varying opinion of the people ; having its ranks closed and united even after the equalization of its orders ; embracing in it all the political intelligence and practical statesmanship that the people possessed ; absolute in dealing with all financial questions and in the control of foreign policy ; having complete power over the executive by virtue of its brief duration and of the tribunitian veto which was at the service of the Senate after the termination of the quarrels between the orders—the Roman Senate was the noblest organ of the nation, and in consistency and political sagacity, in unanimity and patriotism, in grasp of power and unwavering courage, the foremost political corporation of all times . . . which knew well how to combine despotic energy with republican self-devotion.’—*History of Rome*.

¹ See Appendix, pp. 259–60.

² See Seeley, *Life and Times of Stein*, Part II, ch. ii on the character of the Prussian State, and Part I, ch. v for judicious observations on the relation of the internal economy of a State to its foreign policy.

draw attention to the vicissitudes of the foreign policy of Russia. Forgetting, perhaps, that autocracy was at times far from prevailing there, he may be tempted from one case to deduce and learn all, since in 1762, within seven months—months most momentous to Prussia—the policy of Russia, or policy from Russia, toward Frederick was at first strongly hostile, under Elizabeth, then cordially and melodramatically favourable under Peter III, and finally, on his deposition, discreetly neutral and watchful under Catherine II.¹ Well may one point to the warnings of the French Government to its representatives at Petersburg, a few years later, to watch over the ‘convulsive movements’ and warring counsels at the Russian court ; ² and a few years later still we have the vivid

¹ For an excellent list of authorities on this revolutionary year, see *Recueil des Instructions . . . : Russie*, ii. 195, foot-note.

² ‘Des mouvements convulsifs, une politique changeante rendent ses forces presque toujours inutiles à ses alliés. Il faut, par conséquent, se borner à étudier les facilités que le pays a toujours fournies pour le maintenir dans un état d’inquiétude, de crise et de faction. Cette cour a elle-même pour principe d’entretenir les divisions entre ses différents conseils et ses ministres, précaution à la vérité nécessaire dans un pays despotique.’—Instructions secrètes pour le sieur Rossignol, Consul de France à Pétersbourg, 20 juin 1765, *ibid.* ii. 249. Cf. : ‘La cour de Russie est remplie d’intrigues, de brigues, de cabales. Le baron de Breteuil, sans entrer dans aucune, s’étudiera à les démêler et à connoître ceux qui ont le plus crédit près de la souveraine ou dans la nation.’—Instruction secrète et particulière pour le baron de Breteuil . . . à Pétersbourg, 1 avril 1760, *ibid.* ii. 152. See Rulhière (Secretary to the Embassy under Breteuil), *Histoire et anecdotes sur la révolution de Russie en 1762*. On February 8, 1757, Mitchell, at Brunswick, had written to Holdernes, Secretary of State for the Northern Department : ‘. . . I must . . . put your Lordship in Mind how fickle the Court of Russia has been, and how changeable their resolutions are. Your Lordship will remember that within these few months, Sir Charles Williams [British representative at Petersburg] has been upon the Point of succeeding in His Negotiations, which was defeated by a remittance of Money from Vienna, and that the late fiery Declarations of the Czarina

and despairing pictures of Sir James Harris, the British representative, when he had to manœuvre with Catherine, with Panin and Potemkin. In a dispatch of July 1780—a critical year for Britain—Harris states that Prince Potemkin, the favourite of the Empress, assured him that at certain moments she seemed to be determined to join Britain; but she was restrained by the prospect of bringing on herself the sarcasms of the French and of Frederick of Prussia, and especially by the dread of losing by ill-success the reputation she had won.¹ In these circumstances the ‘enervating language’ of Count Panin, her Minister for Foreign Affairs, was more agreeable to her than the advice of Potemkin. Still, in this matter of fostering the League of Neutrality against the interests of Britain, she began to feel, according to the declaration of her favourite, that she had been influenced too far by the Minister: she really regretted her action as ill-considered, and yet her pride would not allow her to recant. ‘When things go smoothly’, said Potemkin, ‘my influence is small; but when she meets with rubs she always wants me, and then my influence

are the Effect of Passion, and Resentment, and grounded upon false Facts and suggestions made by Count Bruhl and His Associates, to mislead that weak and corrupted Court, which is not even now in a condition to fulfill what it has promised, without being supplied with larger Sums of Money than the Court of Vienna can afford; nor can I persuade myself that France will pay for the march and subsistence of a Russian Army to serve Purposes purely Austrian.’—*P.R.O., Prussia*, 68. On October 15 of the same year Mitchell wrote to Holdernes: ‘... If the Empress of Russia should die, I hope not a moment will be lost to improve an event that may still save the whole. How melancholy it is to think, that the Fate of Europe should depend upon such accidents.’—*P.R.O., Prussia*, 70.

¹ ‘L’amour de la gloire et le désir de réparer aux yeux de l’univers le vice de son élévation ont fait de Catherine II une princesse dont le règne fera époque dans l’histoire du monde.’—Instruction, May 6, 1780, to the Marquis de Vêrac, Minister Plenipotentiary to the Empress: *Instructions* ...: *Russie*, ii. 353.

becomes as great as ever.' ¹ Two months before these words were written, Harris had described the French as indefatigable in their efforts to get round the Empress: their agents were many at Petersburg, and they spared no expense and no pains to upset everything that he undertook. ² In this very month—May 1780—the British representative had his character drawn not unfairly in an instruction, signed by Louis XVI and by Vergennes, to one regarding whom Catherine had given the assurance that he would be very well received at her Court as Minister Plenipotentiary from France: 'Il paroît que le ministre anglais à Pétersbourg est l'homme le plus capable de mettre à profit ce que la ruse et les petits moyens peuvent faire pour suppléer aux avantages qu'il sent bien avoir perdus.' ³

Monarchy rests, in principle, on unity, and it emphasizes the need for stability in the conduct of affairs of State. Effective monarchy affords, during its continuance, a better guarantee for persistence in policy and consistency in action than a democracy or a parliamentary government, based on diversities, on discussion, on considerable publicity, and on provisions duly made within the constitution for changes in policy in response to changes in opinion. But facts and conditions relative to each constitution—the extent, for example, to which monarchy can proceed without carrying the nation with it—are the determining forces. They overrule forms, and mould the instruments of rule. A monarchy may pursue methods that are essentially democratic—methods that not only have the

¹ *Diaries and Correspondence of James Harris, first Earl of Malmesbury*, i. (2nd ed.), 281–2. The dispatch, July 21/August 1, 1780, dealt with conversations with Potemkin during a visit of five days to his country house in Finland. Of Potemkin Harris wrote: 'His way of life is as singular as his character; his hours for eating and sleeping are uncertain, and we were frequently airing in the rain in an open carriage at midnight.'

² *Ibid.* 266, May 15/26, 1780.

³ *Instructions . . . : Russie*, ii. 367, May 6, 1780.

approval, but require the active co-operation, of the community. In methods adopted for a definite end, democracy may be secretive, repressive, arbitrary. A 'free government' (to continue the language of an earlier day) is still government. It cannot evade the tests of success to which all government is subject. A 'government by consent' (the now approved definition of democracy) may accept a one-man power and ascendancy—a Pericles or an Abraham Lincoln, a military dictator, or a soldier-statesman, and not merely a War Cabinet. Still, a constitution that is predominantly monarchic differs from a constitution that is predominantly democratic and parliamentary in requiring less regular, less continuous, and less immediate dependence on the expressed or ascertainable will of the nation or of the majority or the stronger part of those who are invested with political rights and power. A democratic constitution may be held to be necessary in domestic government in a modern State, but may, without inconsistency, be condemned, or in essentials curtailed, in its application to international policy. The spheres of application are different. In seeking to shape and control foreign policy the politically enfranchised majority of a people are passing beyond the concerns of one nation—their own—to those of others. In these others the methods adopted may not be in consonance with freedom of discussion and unrestrained publicity. They may be methods that recognize, tacitly or frankly, that rule has its mysteries, its rites, and even its hierarchy. In them special capacity may be assigned its sphere and may inspire confidence; or particular ways and means may be on their trial. Against monarchy and despotism, however, charges of vacillation due to whims and jealousies, as well as to limits of knowledge and capacity, have been many. The materials for such charges were abundant in Russia before she had fixed her purpose in an Eastern policy, and before she had a tradition

to maintain in policy and in the zeal and tenacity of State officers, themselves genuinely Russian.

The path of inquiry in comparative politics is very alluring, but it is dangerously devious. It is better to concentrate on one political system, and to get the lessons as sharp and decisive as possible. If we look to our own government since the time when a parliamentary system began to prevail in England, we find an almost unbroken line of appeal to close the ranks and maintain unity of mind and purpose for unity in action, where the interests of the country have had to be adjusted to the interests and the contentions of others. We need not press very far the charges made at the time, both at home and abroad, and later by historians, more especially Continental, that on several notable occasions Britain, through the force of party influences, was false of faith to her allies—during the Spanish Succession War, and again in the War of the Austrian Succession, without taking account of the more exceptional case of the ‘desertion’ or ‘betrayal’, as it has been termed, of the cause of Frederick II of Prussia before his day of danger was over. The historical and political writer,¹ to whom probably more than to any other these charges have owed wide currency, stated them dispassionately, without acrimony. They were urged as charges due to the faults of a constitutional system; they were not brought forward as unqualified charges of a violation of public faith. The minister who was chiefly responsible for terminating the war in each case was not the minister, and did not represent the party or the political connexion, that had been in power when the war was entered

¹ Heeren (A. H. L.), who was Knight of the Guelphic Order, Councillor, and Professor of History in the University of Göttingen, born 1760, died 1842. See especially his ‘Historical Development of the Rise and Growth of the Continental Interests of Great Britain’.—*Historical Treatises*, translated (1836) from the German (1821), 351–2; cf. 314–15.

upon, or when it was prosecuted with vigour and success. Hence, it was concluded, without reserve, if also without bitterness and the injustice of extremes, that the Government in Britain cannot guarantee with the same assurance as others the performance of its obligations; and, it was rightly contended, the consequence in respect of foreign Powers was most pernicious. It was, however, admitted that on the part of Continental Powers physical impossibilities—a total subjugation or some extreme trial and distress—might prevent the fulfilment of their obligations: ‘a case which can scarcely be supposed to occur with respect to England’.¹ The capacity of Britain to endure physical strain was acknowledged to a degree that Montesquieu would have commended—that high degree which the experience of two great wars, in spite of a bitter lesson in an intervening one, seemed to have established for the people of Britain since the eulogy of her by the author of the work *De l’Esprit des Lois* had been published.² Britain’s non-fulfilment of obligations to foreign Powers was to be ascribed, if not to a clear breach of political morality, at least to the character and consequences of conventions, and to conventions that had acquired the force of principles, in the ordering of her political life. The non-fulfilment of obligations by Continental Powers was to be ascribed to physical duress, to the imperious calls of nature, to which the State for its own safety, the community for the sake of bare existence, must submit.

It is instructive to observe how such a critic and apologist finds no need to condone, as though it were reprehensible, the action of Frederick II as an ally of France in the course of his Silesian Wars—and the designation of the wars is at once almost Frederick’s condemnation and his defence—between 1740 and 1745. He sees in Frederick’s action ground for

¹ *Historical Treatises*, 352.

² In 1748.

praise for consummate skill ; he claims for him political judgement almost unique. Frederick began the war on his own account against Austria, and without the help of France. Soon he was in active alliance with the French, but as early as 1742 he came to terms with Austria, and left France fighting. Two years later he resumed the struggle, was again allied to France, and again, after only sixteen months, abandoned her ; and his Christmas letter of 1745 to Louis we have already produced. The interests of Frederick did not coincide with those of France ; he was not a champion, accredited and self-sacrificing, of the interests of France, of the Westphalian rôle and historic mission of France. He had no desire to witness the aggrandizement of France at the cost of the annihilation of the monarchy of Austria. Therefore, it is contended, to understand him is to admire him. ‘ The art, till then unknown in Europe, of concluding alliances without committing one’s self, of remaining unfettered while apparently bound, of seceding when the proper moment is arrived, can be learnt from him and only from him.’ Intrepidity in conduct, freedom characterizing every movement, a straightforwardness which was not, however, unaccompanied by cunning—in a word, superiority over his contemporaries : these are claimed for Frederick, and deduced from his conduct as an ally. ‘ The immutable truth, that independence of character is of more value in negotiation than brilliant talents, and rises in importance proportionately to the eminence of the station in which the possessor is placed, no one has more strikingly attested by his own example than Frederic at that period.’¹

The apologist of Frederick well knew the fortitude displayed, in the course of the Seven Years’ War, by Prussians and pre-eminently by the Prussian King—a ‘ truly great King ’, his

¹ Heeren, *op. cit.*, 316–17.

fellow-worker, the elder Pitt, called him.¹ He had, moreover, lived through the years of Prussia's humiliation and agony under the iron heel of Napoleon, and had witnessed her political recovery and her national triumph. He was a student of Frederick's historical writings,² and from laudation of his achievements and success he went back, and was almost forced, to approval of his means—to an *apologia* of his political morality. The same thinker declared that history would never forget the almost incredible exertions made by Britain in the final struggle against Napoleon for the liberation of Europe. In appraising her achievement he thought not only of the advantages conferred upon her by her insular position, but also of the fertilizing effects of her constitutional system in propagating on the Continent those political opinions which inspired the last fight against the despot and called for sustenance and constant encouragement if they were to prevail. He was no advocate for imposing her constitutional system as a general model, and yet he was so gravely impressed with the results of its working and with the force of its example, and so favourably disposed to the mediating function which Britain exercised among Continental Powers, as to express, not less for her than for his own country, the wish *Esto Perpetua*.³ The recording of such judgements has at least the value that we may guard

¹ '... the heroic constancy of spirit and unexampled activity of mind of that truly great King.'—Pitt to Andrew Mitchell, September 9, 1760, *Correspondence of William Pitt, Earl of Chatham* (1838), ii. 58. Cf. his letter to Mitchell, March 31, 1757: 'The most grateful sentiments of veneration and zeal for a Prince, who stands the unshaken bulwark of Europe, against the most powerful and malignant confederacy that ever yet has threatened the independence of mankind.'—Ellis, *Original Letters*, 2nd series, iv. 404.

² Contained in *Œuvres posthumes de Frédéric II, Roi de Prusse*, 12 tomes, Berlin (1788), published when Heeren was twenty-eight years of age.

³ *Historical Treatises*, 420-2.

ourselves against losing all sense of perspective when we are concentrating attention on the bearing of one political system on the conduct of foreign policy.

William III was his own Foreign and War Minister. That was the condition of his action.¹ It is also, in large part, the explanation of his success. He would not be a mere Doge of Venice. No more bitter anxiety of mind fell on Marlborough in the conduct of war than that which came to him from uncertainty of the course of party politics at home ; and it was the most continuously depressing of all his anxieties. With the accession of George I the constitution became still more parliamentary and still more dependent upon party and a party ministry. But, with the bearings of a parliamentary constitution better understood through an accumulating and diversified experience, criticism of its working and effects becomes more direct ; misgivings assert themselves. Yet, the ministerial changes and uncertainties of the reigns of George I and George II were changes and uncertainties within one party, and were not primarily due to the criticisms and the policy of the Tories. Within a year of the accession of the new House we find the French Government instructing its representatives abroad to observe that one of the grounds for the failure of Stanhope's mission to the Emperor was the Emperor's recognition that little reliance could be placed on a Government subject to changes so frequent² as there had lately been in Britain. An additional element of uncertainty was

¹ See Miss H. C. Foxcroft, *Life and Letters of George Savile, Marquis of Halifax* (1898), ii. 137, for William's plea of urgency of supplies and for unity, in the King's Speech, October 1690, and Halifax's inquiry, in his Notes for a Speech, 'Of what use are Parliaments if, when there is war, everything that is asked is to be given ?'

² 'Connoissant le peu de solidité des mesures qu'il prendroit avec un gouvernement sujet à des changements si fréquents.'—Instruction, 17 mars 1715, à M. Mandat, allant à Vienne : *Instructions . . . Autriche*, pp. 186-7.

presented by the character of the personal union between Great Britain and Hanover. The Elector of Hanover persisted in the exercise of his right to treat with foreign Powers regarding Hanover as Elector merely, without having to submit to the galling restraints imposed upon the British sovereign in the conduct of the foreign policy of Britain.¹ The confusion of issues that followed was hardly avoidable. But it was the manner of conducting the policy of Hanover that almost equally with the substance of that policy led to opposition and to outspoken resentment in Parliament.² It was the means adopted as well as the ends pursued that inspired the critics of the Hanover policy. The true inwardness of that policy, and the way in which it could be related to the furtherance of the interests of Britain, were grasped, in varying degrees and in changing situations, by Stanhope, by Carteret and, after his years of waywardness and irresponsibility, by the elder Pitt; and they did not vastly differ in the view they took of the use that was to be made of the rights of the executive in carrying out the policy. It was necessary to reckon with Parliament, and with a Parliament that was moved by home politics more than by foreign, except at a national crisis, and that was influenced by great family connexions and by the barter of patronage for power. For this Carteret, unlike Walpole and the Pelhams, was too proud, too brilliantly independent, to make the due allowance that discretion demanded; and he fell before those who were his inferiors in knowledge and capacity. It was necessary for ministers to win over Parliament, to manage it and even coerce it. It was expedient, under the imperious conditions of the parliamentary

¹ See Ward (A. W.), *Great Britain and Hanover: some Aspects of the Personal Union* (1899).

² For a concise statement see the Lords' Protests, February 17, 1725; cf. Protest of April 17, 1730.

system of the eighteenth century, to attend to the making of bishops and of revenue officers not less than to the fulfilling of the boast of Carteret—the making of kings and emperors and maintaining the balance of power in Europe. But it was equally necessary for ministers of the Crown to assert a right to initiative and to a considerable measure of discretionary authority in the conduct of foreign affairs.

Addison, writing in *The Freeholder*¹ of the mutability in politics charged by foreigners against the English,² tells how the famous Prince of Condé would ask the English Ambassador, on the arrival of a mail, ‘Who was Secretary of State in England by that post?’ One of the chief arguments advanced for the passing of the Septennial Bill was the greater trust that foreign States would repose in this country if general elections and changes of ministers were less frequent. Just a little later, at the time of the Whig Schism, we find Lord Stair, Ambassador to France, invoking a plague on both parties, and especially on Whig factions. In his own words, in a letter to Craggs,³ who within a few months was made Secretary of War, ‘I look upon what has happened, as the most dangerous thing could befall us, both as to the matter, and as to the manner. What the devil did Lord Sunderland and Stanhope mean, to make such a step⁴ without concerting it? . . . I am afraid these

¹ No. 25. Cf. Nos. 37 and 54.

² Cf. Milton: ‘I know not, therefore, what should be peculiar in England, to make successive parliaments thought safest, or convenient here more than in other nations, unless it be the fickleness which is attributed to us as we are islanders.’—*The Ready and Easy Way to Establish a Free Commonwealth: English Prose Writings of John Milton*, ed. by Henry Morley (1889), 434.

³ Hardwicke, *State Papers* (1778), ii. 556, January 4, 1717.

⁴ The removal of Townshend from the Secretaryship of State for the Northern Department. Walpole also retired from office. Both were opposed to the Hanoverian junta.

convulsions at home may hurt our affairs abroad.' 'Head, and hearts, and hands' there must be. Surely there was a sound common platform on which leading men of the party could stand together: 'half a dozen of good men would go far; but they must be men indeed'. Only essentials of conformity should be exacted as a test.¹

And so we might by illustration proceed. We might show, on the one side, how Carteret in the conduct of his diplomacy, whatever in substance and objects be its merits, was obstructed by the intrigues and jealousies of the Pelhams in the ministry,² and, on the other side, the great and brilliant results achieved

¹ The standard for co-operation and solidarity among ministers is very prudently conceived by Stanhope and in a way that furnishes an instructive comment on the means—some of them drastic—soon to be employed by Walpole for establishing his ascendancy as First Minister. 'And I agree with you, likewise, that in public affairs, when a measure is taken that a man does not approve of in his judgment, if it be only a matter of policy and not against the direct interest of one's country, I think one should support the measure when once it is resolved, as if it was their own, and as if they had advised it . . . : in taking public measures, I think the wisest and most moderate men's opinions should be asked and followed. For if rash councils are followed, you will not find hands to support them. By attempting things, even right things, which you are not able to carry, you expose yourself, in our popular government, to the having the administration wrested out of your hands, and put into other hands; may be, into the hands of the enemies of our constitution. . . . But if heat and impatience will make you go out of the entrenchments, and attack a formidable enemy with feeble forces, and troops that follow you unwillingly, you will run a risk to be beat, and you wont get people to go along with you to purpose, by reproaching them that they are of this cabal, or of the other cabal, or by reproaching them that they are afraid.'—Letter, October 5, 1717, to Craggs. Hardwicke, *op. cit.*, ii. 559–60.

² In the Newcastle Papers, Brit. Mus., Add. MSS., see especially the letters of Richmond (with George II on the Continent) to Newcastle, June 3/14, 1743, and of Newcastle to Carteret (on the Continent), June 24, 1743, and July 5, 1743.

under the elder Pitt when party was forgotten, and the Council, in the words of the aged Carteret, Lord Granville, was a happy *conciliabulum*. Or, again, we might show why precisely it came that Frederick II of Prussia¹ conceived his deep distrust of the English constitution for its influence on the conduct of foreign affairs, and ‘abused Parliaments’—sentiments which were entertained also, in different degrees of bitterness and contempt, by Catherine II, by Kaunitz, and others.² The composition and the cohesion of parties in Britain, the cohesion and security of ministries, seemed to depend upon temporary and changing circumstances of a domestic character. Could anything be taken for certain in dealings with a State whose politics were thus founded, and thus displayed to foreign observers? Such assertions and charges, even when they were not justified, or were but little sustainable, from facts, had a diplomatic use: they could be made to serve a diplomatic end, immediate or ulterior.

While foreign princes and foreign ministers, as well as some ministers and critics at home, were thus passing adverse judgement on the British constitution for its imperfections and excesses caused by the parliamentary system, leaders of the Opposition were demanding the production of dispatches, papers, and reports which the Government was withholding on the plea of State necessity. Of many complaints the two following are typical. They are taken from the Lords’ Protests: they are drawn from the armoury of the Opposition to Sir Robert Walpole. In the first³ it was contended, with reference to the trading interests of the British colonies and

¹ ‘The King of Prussia, who never loses time.’—Andrew Mitchell (from Leipzig), October 30, 1757, to Holdernessee. *P.R.O.*, *Prussia*, 70.

² Sorel, *La Question d’Orient au XVIII^e siècle* (1880), pp. 83, 84, 85 of the English translation.

³ March 26, 1734.

plantations in America, that treaties alone would not bind those Powers which might seem to have advantages in prospect from opportune aggression, and that 'the interposition of a British Parliament would be more respected and more effectual than the occasional expedients of fluctuating and variable negotiations, which in former times have been often more adapted to the present necessities of the ministers than to the real honour and lasting security of the nation'. The second Protest ¹ was framed on the rejection of a motion that a secret committee, consisting of those Peers who were Privy Councillors, be appointed to inquire into the conduct of the war against Spain towards the close of Walpole's ministry. 'The so-often urged argument of secrecy', which in another Protest of the same times ² was termed 'the stale objection', is an argument, it was said, that 'proves too much, and may as often without as with reason be used in bar of all inquiries, that any Administration, conscious either of their guilt or their ignorance, may desire to defeat'. Secrecy of this 'timorous' and 'scrupulous' kind was 'much oftener the refuge of guilt than the resort of innocence'. The case for inquiry and for openness in the conduct of foreign policy was ably presented in the House of Commons by Wyndham in the session 1733-4, when the Polish Succession—or Election—War was in progress. A motion that the letters and instructions to British ministers in France and Spain be produced was rejected by 195 votes to 104. Wyndham argued that Parliament, if denied such knowledge, could not sustain its part in upholding the interests of the nation abroad, and could not comprehend the extent of the interests of Britain in the war which was at that time being fought on the Continent without her. Even if we were to take no part in the war, it was necessary to provide for the safety of the nation ;

¹ January 28, 1740/1.

² December 8, 1740.

and the grounds for making adequate provision were not disclosed. How (he asked) could members of the House of Commons judge of the estimates to be laid before them as a provision for national safety, if they did not know by what danger the nation was confronted? How, further, could we know our danger without knowing how we then stood with regard to foreign alliances and engagements?

The case for the Government in these and like transactions was moderately and clearly put by Henry Pelham in the House of Commons. His ministry was criticized for not having laid the preliminaries of the Treaty of Aix-la-Chapelle before Parliament, so that its opinion might be taken beforehand, as had been done on the occasion of the Treaty of Utrecht. Pelham, in his defence, disclaimed any intention to limit in any degree the right of Parliament to examine and criticize any treaty after it was concluded, and to censure and punish those who advised and negotiated the treaty if it should seem to have wantonly or unnecessarily sacrificed the interests or the honour of the nation. Such a right on the part of Parliament was to be upheld as a salutary check on the conduct of ministers. But, 'if Parliament should encroach upon the prerogative of the Crown, by assuming a right to make peace or war, and to inquire into foreign transactions under negotiation, our affairs will be reduced to a dangerous predicament; for no foreign State will negotiate with our ministers, or conclude any treaty with them, either political or commercial.'¹ These considerations of national advantage similarly required that Parliament should not assume a constitutional right to prescribe rules to the Crown for its conduct in any future negotiation or treaty. Advice either House is competent to offer; but, if the advice be coupled with the condition that

¹ Coxe, *Memoirs of the Administration of the Right Honourable Henry Pelham* (1829), ii. 87.

in no case can it be departed from without the consent of the House, it ceases to be advice : it becomes a rule or law, which Parliament has no right to prescribe to the Sovereign, and which no minister, faithful to his position and its obligations, could advise him to accept as a rule or law.¹ For ministers to seek the approval of Parliament—it might be a tame and controlled and submissive Parliament—in the course of negotiations and in the acceptance of the preliminaries of a treaty, might reveal that they were conscious of failure to secure the interests of the nation, rather than that they were moving towards an indubitable success such as could never fear the light of criticism in days to come.

. But it was more especially with the establishment of a more democratically based constitution in the nineteenth century that criticisms of the parliamentary system of Britain, in relation to the conduct of foreign policy, became sharp and severe. Under a parliamentary party system, resting on the ultimate power which is vested in a wide and inconstant electorate, it has been only with the utmost care and difficulty that the principle of continuity in foreign policy has been, in general, successfully asserted in Britain ; and, with continuity, has come the gain of a large measure of trustworthiness in the eyes of foreign States. The presumption in a system that rests on parties and majorities is in favour of change and towards instability.² Bismarck, pre-eminently on this account, distrusted the foreign policy of Britain and the making of compacts

¹ Coxe, loc. cit.

² We are not here engaged upon a comparative study of political delinquency. Cf. the words of Napoleon III when he was expressing to Malmesbury his desire to be inseparable from England : ' The great difficulty is your form of Government, which changes the Queen's Ministers so often and so suddenly. It is such a risk to adopt a line of policy with you, as one may be left in the lurch by a new Administration.'—*Memoirs*, under date March 20, 1853.

with her. He spoke with contempt of newspapers having more force than was commanded by settled principles of policy, and of ruling by the mere opinions of the day. Since the Reform Bill of 1832, he said in 1859, it had been impossible for the old hereditary wisdom to discipline the uncurbed passions of party, and he could not place confidence in a country in which an article in a newspaper was of more value than a principle. 'Good Heavens!' he continued, 'if that lot should befall the Prussian monarchy—if she also should have her Reform Bill—if the power were to be taken from the sacred hands of the King only to fall into those of the lawyers and the professors and the babblers who style themselves Liberals!' The Danes do not forget the expectations, with a semblance of promises, by which they were deluded on the Schleswig-Holstein question through British newspapers and British party politicians; and Bismarck expressed the view that the Schleswig-Holstein diplomatic campaign was the success in diplomacy of which he felt most proud, so that when he was made Prince he would rather have had Schleswig-Holstein than Alsace and Lorraine put into his armorial bearings.¹ If, again, we turn to Lord Lyons at the anxious time of excitement over the 'Trent' affair, we shall commend him for ignoring popular clamour whether in the United States of America or in Britain, and for deliberately and resolutely abstaining for six weeks from uttering any opinion of his own, and by such prudent reticence going far to save the situation.² A wise diplomacy must know how to delay decisions as well as how to anticipate; there have been critical times when it showed its wisdom by knowing how to put off till to-morrow what could not be safely done to-day, and when it not the less truly interpreted the public interest by opposing a barrier

¹ Busch, *Bismarck*, ii. 337.

² See Newton, *Lord Lyons*, 2 vols. (1913).

to the demands of a clamorous public opinion—of a ‘will of all’ that may not have known the true ‘general will’. ‘If I could from this place address the English people’, said Lord Derby in 1878, ‘I would venture to ask them how they can expect to have a foreign policy, I do not say far-sighted, but even consistent and intelligent, if within eighteen months the great majority of them are found asking for things directly contradictory’.¹ The measuring of public opinion is for the statesman as hard a task as its instruction. Even to public opinion, when voiced by representatives, and in its action not immediate and not impulsive, there are limits of competence, bounds imposed by discretion. We should not forget that in 1890, in the course of discussions on the proposed cession of Heligoland to Germany, Mr. Gladstone questioned both the constitutionality and the high expediency of asking the Houses of Parliament to share the treaty-making power—a power exercised by ministers who are well aware of their responsibility to Parliament and to the nation.² And who shall yet say how far diplomacy in the decisive week at the end of July 1914 had to reckon with a consideration that should have been out of the reckoning altogether—the limits to party cohesion and party allegiance where the interest and the honour of the whole British Commonwealth were at stake?

The lessons of example and the force of historical evidence are not wholly cast in one mould. But the very nature of the problems should preclude, in the modern State, anything like direct participation of a vast number of minds and tongues in the initiation, the conduct, and the control of foreign policy; not least in Great Britain. A plainer foreign policy than there has usually been may be possible.³ But that any

¹ Speech in the House of Lords, April 8, 1878.

² See Appendix, pp. 2100–3.

³ General Smuts on May 15, 1917—about a month before he became

large number of men should ever be qualified, or that they should even seek, with good results, to qualify themselves, for the exercise of an initiative that shall be wise, and for a control that shall be well informed, in the conduct of foreign affairs, where the conditions are of necessity complex and the issues involved are momentous, no student of history and no honest mind will ever admit. Even were it possible, it would not be desirable. In the modern State democracy is and must be indirect, not direct: it loses impulsiveness, and it gains in knowledge, in impressiveness, and in power, through being

a member of the War Cabinet (see p. 283)—spoke of the need for ‘a common policy in common matters for the Empire. . . .’ Further, ‘they could not settle a common foreign policy for the whole of the British Empire without changing that policy very much from what it had been in the past, because the policy would have to be, for one thing, far simpler. In the other parts of the Empire they did not understand diplomatic *finesse*. If our foreign policy was going to rest not only on the basis of our Cabinet here, but, finally, on the whole of the British Empire, it would have to be a simpler policy, a more intelligible policy, and a policy which would in the end lead to less friction and greater security. No one would dispute the supremacy of the Imperial Parliament. They would always look upon the British Government as the senior partner in the concern. But the Imperial policy would always be subject to the principles laid down from time to time at the meetings of the Imperial Conference. Such a policy would, he thought, in the long run be saner and safer for the Empire as a whole. He also thought it would lead to greater publicity. After the great catastrophe which had overtaken Europe, nations in future would want to know more about that foreign policy. He was sure that the after effects of a change like this, although it looked a simple change, were going to be very important, not only for the Commonwealth of nations, but for the world as a whole. People were inclined to forget that the world was growing more democratic, and that public opinion and the forces finding expression in public opinion, were going to be far more powerful than they had been in the past. Where they built up a common patriotism and a common ideal, the instrument of government would not be a thing that mattered so much as the spirit which actuated the whole of government.’—*The Times*, May 16, 1917.

representative and mediate. Democracy needs checks for its own security, just as monarchy has needed and submitted to checks against its own abuse. The power of a democracy when once it is set in motion along any line may be irresistible, but it stands in need of guarantees of stability and endurance.

In Britain, even more than in the American Commonwealth,¹ adequate provisions exist for an ultimate and true national control over the determination of foreign policy. They are found in the nation's capacities being represented, and in their being raised, in the process of representation, to a higher level of efficiency. They are found formally and practically, to the knowledge of every citizen, in the command of the purse held by the House of Commons, and in the daily and continuous responsibility of ministers to that House—the House of the nation's chosen representatives. No foreign policy can be maintained, and none, in prudence, can even be embarked upon, that does not look to the interests of the nation—interests of commerce and material well-being, and not less for Britain the interests of honour and prestige; and any foreign policy once embarked upon must reckon with the necessity of making the general and substantial title to such support clear and convincing.² That condition may prove to be a defect in the execution of policy—an opinion which has already been sufficiently implied and enforced. But acceptance of the condition is required for the ultimate sustenance of policy and for the assurance of its strength. Among political virtues prudence stands the first and the last. Much will depend—more in the near future than in the recent past—upon the prudence of party leaders and party men and

¹ See Appendix, pp. 278-9, 281.

² For views expressed on this part of the subject by Palmerston, Clarendon (1866), Salisbury (1885), and Mr. Balfour, see Appendix, pp. 263-9.

the press, and upon the restraints which they may freely and wisely accept.

But diplomacy will still remain. It will still be a means to ends. Those who have to conduct business between nations cannot, without detriment and disaster, violate the rules and methods that are essential to the conduct of business and to success.¹ Instruments and agents may vary with conditions. They may come to be quite unexceptionable in work and character. But the need for circumspection is not likely to become less. For the conduct of international business, in whatsoever atmosphere of mind and morals, men who understand men and affairs will still be required. A Duke of Albany as drawn by the Earl of Surrey, son of the victor of Flodden, may still have a place and successors, but his is not the place of a discreet diplomatist.

‘ And by many wayes I am advertised that the Duke of Albany is a marvelous wilfull man, and woll beleve noo mannys counsaill, but woll have his owne opinion folowed. And bicause the Frenche King hath be at soo greate chardges by his provoking, having his wiffs inherytance lying within his domynyons, dare not for no Scottish counsell forbere t’ envade this realme. I am also advertised that he is so passionate that and he bee aperte amongis his familiers, and doth here any thing contrarius to his myende and pleasure, his accustomed manner is too take his bonet sodenly of his hed and to throwe it in the fire; and no man dare take it oute, but let it be brent. My Lord Dacre doth affirme that at his last being in Scotland he did borne above a dosyn bonetts after that maner. And if he be suche a man, with Gods grace we shall spede the bettir with hym.’²

Is it the picture of an open diplomatist? Travesty let it be: by no accession of the merit of plainness can the conduct of

¹ See Appendix, p. 266: Mr. Balfour, House of Commons, March 19, 1918.

² Surrey, at Newcastle, to Wolsey, October 8, 1523. Ellis, *Original Letters* (first series), i. 226-7.

the business of States be attuned to openness so markedly naked and so frankly unabashed. A Duke of Albany thus active and thus open may have his successors yet, whether we are thinking of individual politicians or of masses of men. But his place is not that of Managing Director of the Board of Control for Foreign Affairs. Still, even to open diplomacy must be conceded its several types, its several grades.

Those in Britain who have lately criticized the very foundations of the British plan of conducting foreign policy, on the ground of its disregard of democratic methods and national rights, are neither genuinely democratic nor genuinely national. They do not recognize the nature of democracy in the large and extended communities of to-day, and they convey the impression that the foreign policy of Britain can be, and has been, conducted, under the prevailing forms and facts of her politics, not only with the secrecy but even with the independence which characterized the methods and the powers of the Council of Ten in the Republic of Venice.¹ They protest on the ground of 'freedom'. They have probably false notions of freedom. They do not inquire, as we should always be asking ourselves, and should inquire of others, when that word is used, 'Freedom?—From what?' 'Freedom?—For what?' 'Freedom?—To whom?' May it be freedom to those who repudiate a State obligation at a time of national danger? If we were to carry farther our analysis of this species of democratic fervour and of the movement which it inspires and is designed to help, we should find that many of those who speak and labour under its influence cannot take a dispassionate view of the manner and the instruments of the conduct of foreign policy. Many of them there are who have been influenced by considerations of an extraneous kind—by an economic bias, for example, with the consequences it seems

¹ See Horatio F. Brown, *Venice: An Historical Sketch* (1893), e.g. p. 182.

to entail in spheres not primarily or not exclusively economic, or by a diffused and bounteous humanitarianism of not less insecure foundations.

We must never forget that any movement of this character—and there are more than one in our midst, and there are likely to be more still—must proceed with some approximation to equal step and equal weight in the several leading States, if it is not to carry with it grave misfortune for that State which outruns the rest in its trust and confidence in men and humanity. Neither for means nor for ends is it specially called for in Britain. For the means it advocates it may contain elements of good for a State—a State, let us say, strongly organized and mechanically efficient—which does not yet know the parliamentary system, knows not responsibility of ministers to Parliament, knows not democracy. Nor for its declared end—a better and more stable international understanding—is any appeal, justifying such movement, specially required in Britain. The highest interest of Britain for herself and for the Empire has been known to be—was too well known to be—peace; and in future her interest will still be peace, but without a slothful overtrust. She can enter in spirit into a true League of Nations, even without requiring to be attached to it by compliance with prescribed and rigid forms; and no League of Nations, for unity and concord, can have being by mechanism chiefly and without the disposition that is requisite to give it life.

But if we in Britain do modify, as we shall and already have begun ¹ to modify, the kind of indirect national control which has prevailed with us, this we shall do wisely by imparting to it greater breadth, a larger representative character, a character truer to the facts, a stronger vitality. We shall make it representative not of the British at home only, but of the whole British

¹ See Appendix, pp. 282–4.

Commonwealth, in accordance with a community of interest and a partnership in achieving. We should have the assurance that this more representative direction and control of foreign policy by a Council of the Empire would express the mind of a Commonwealth of peoples, and would be the informed check of mind upon mind. It would help to promote the collective responsibility of all civilized nations in upholding International Law and developing and safeguarding international morality. This it would do without relaxing its grip on the solid truth that there is only one effective way of resisting wrong done by force, or of warding off wrong threatened by force: there must be the means, and there must be readiness, to exert force on the side of right and justice.

SUPPLEMENTARY NOTES

A. ANTI-MACHIAVEL LITERATURE

There is an abundant anti-Machiavel literature from an early date: see, in Burd's edition (1891) of *Il Principe*, the Introduction by Acton and by the editor. In Campanella's *De Monarchia Hispanica* (c. 5) sharp antitheses are drawn between *prudentia* and *astutia*. E. g. 'Prudentia clemens est, et verax: Astutia crudelis, et adulatrix. . . Prudentia dum perdit, acquirit (id quod Petrus, et Papa adhuc hodie facit), et quanto penitius cognoscitur tanto ardentius a suis amatur. Astutia dum acquirit, perdit; et quanto magis nota est, tanto magis odio habetur. Sicut videre est in scelesti illius Machiavelli discipulo Cesare Borgia, qui per astutias suas principatum Flaminiae (hodie Romaniae) perdidit.'—*De Mon. Hisp.*, ed. 1641, 24–5. More significant are the favourable, or not adverse, interpreters of Machiavelli. To Alberico Gentili, *De legationibus libri tres* (1585), iii. 9, quoted by Burd, op. cit. 63, Machiavelli is 'Democratiae laudator et assertor acerrimus; natus, educatus, honoratus, in eo reipublicae statu; tyrannidis summe inimicus. Itaque tyranno non favet: sui propositi non est, tyrannum instruere, sed arcanis eius palam factis ipsum miseris

populis nudum et conspicuum exhibere.' Similarly, Spinoza, *Tractatus Politicus*, c. v, § 7: 'Quibus autem mediis Princeps, qui sola dominandi libidine fertur, uti debet, ut imperium stabilire et conservare possit, acutissimus Machiavellus prolixè ostendit; quem autem in finem, non satis constare videtur. Si quem tamen bonum habuit, ut de viro sapiente credendum est, fuisse videtur, ut ostenderet, quam imprudenter multi Tyrannum e medio tollere conantur. . . . Praeterea ostendere forsàn voluit, quantum libera multitudo cavere debet, ne salutem suam uni absolute credat, qui nisi vanus sit, et omnibus se posse placere existimet, quotidie insidias timere debet; atque adeo sibi potius cavere, et multitudinì contra insidiari magis quam consulere cogitur; et ad hoc de prudentissimo isto viro credendum magis adducor, quia pro libertate fuisse constat, ad quam etiam tuendam saluberrima consilia dedit.' Amelot de la Houssaie in his translation and commentary, *Le Prince* (1683), wrote: 'Il ne faut pas s'étonner, si Machiavel est censuré de tant de gens, puisqu'il y en a si peu, qui sachent ce que c'est que *Raison-d'État*, et par conséquent si peu, qui puissent être juges compétens de la qualité des préceptes qu'il donne, et des maximes qu'il enseigne,' p. 5; see further his Preface, partly quoted by Burd, 65-6. Amelot's notes are largely made up of passages from Tacitus, 'le Maître et l'Oracle ordinaire des Princes'. 'En feignant de donner des leçons aux rois', says Rousseau of Machiavelli, 'il en a donné de grandes aux peuples. "Le Prince" de Machiavel est le livre des républicains.'—*Contrat Social*, iii, c. 6. For Rousseau's views on the sway of 'interest' and of 'Reason of State' in international affairs, see *Considérations sur le Gouvernement de Pologne*, c. 15. According to Hegel, it was Machiavelli's high sense of the necessity of constituting a State that caused him to lay down the principles on which alone States could be formed in the circumstances of his time.

B. MACHIAVELLI ON THE OFFICE OF AN AMBASSADOR

Machiavelli, himself an experienced ambassador and negotiator of treaties, shows his conception of the qualities requisite for a successful embassy in the instructions given by him to Raphael Girolami, Ambassador to the Emperor. It is necessary, he held, for an ambassador so to regulate his actions and conversation that he shall be thought a man of honour. A reputation for sincerity is 'highly essential, though too much neglected, as I have seen more than one so lose themselves in the opinion of princes by their duplicity, that they have been unable to conduct a negotiation of the most trifling importance. It is undoubtedly necessary for the ambassador occasionally

to mask his game ; but it should so be done that suspicion shall not be awakened, and he ought always to be prepared with an answer in case of discovery.' The correspondence of an ambassador with his own Government has regard to three objects—what is done, what is being done, and what may be done. The first alone is easy, although it may be difficult to obtain the requisite intelligence concerning a league between two Powers against a third, where it is to the interest of one of them to preserve secrecy, so that great prudence and circumspection are in such cases called for. The difficulty of knowing what is passing is of a different category, because in place of facts as data there are merely conjectures. ' Besides, the courts of princes are full of men whose sole occupation is to listen to everything, and to repeat what they have heard, as well to make friends of those to whom they communicate the intelligence, as to learn something from them which they may turn to their profit. The friendship of this class of men may be gained by talking of such things as dinners and gaming ; and I have seen very grave personages permit gaming at their houses, to afford the opportunity of seeing many persons whom it would otherwise have been difficult to meet in any place so as to converse with them. But, to extract any information from a man, you must occasionally encourage him by reposing a confidence in him, which he may think important. In a word, nothing is more likely to make others disclose what they know than to appear to set the example. But, in order to do this, an ambassador ought to be informed of all that passes at his own Court and elsewhere. . . . Amongst the matters of which you will hear, there will undoubtedly be many entirely false, as well as some that are true, or probable. It is your duty to weigh them with judgement, and inform your Court of those which you think have some foundation, and merit its attention ; and, as it would not be eligible to place your judgement in your own lips, I would recommend you to adopt the form of dispatches that several ministers have used with effect. It consists in an *exposé* of the facts that have come to your knowledge, sketching the characters of the parties, and the interests which direct them, and concluding in this manner : " taking into consideration all I have said, the most judicious persons here think that such and such will be the result." . . . I know also some who, every month or two, were at the pains to give their Courts a picture of the general situation of the State or city where the prince resided to whom they were sent . . . ; for nothing is so well calculated to enlighten a Government as a knowledge of the resources of other States.'

C. THE BALANCE OF POWER

‘Europe forms a political system, an integral body, closely connected by the relations and different interests of the nations inhabiting this part of the world. It is not, as formerly, a confused heap of detached pieces. . . . The continual attention of sovereigns to every occurrence, the constant residence of ministers, and the perpetual negotiations, make of modern Europe a kind of republic, of which the members—each independent, but all linked together by the ties of common interest—unite for the maintenance of order and liberty. Hence arose that famous scheme of the political balance, or the equilibrium of power; by which is understood such a disposition of things, as that no one potentate be able absolutely to predominate, and prescribe laws to the others. The surest means of preserving that equilibrium would be, that no power should be much superior to the others, that all, or at least the greater part, should be nearly equal in force. Such a project has been attributed to Henry IV; but it would have been impossible to carry it into execution without injustice and violence. Besides . . . commerce, industry, military pre-eminence, would soon put an end to it. The right of inheritance . . . would completely overturn the whole system. It is a more simple, an easier, and a more equitable plan, to have recourse to the method . . . of forming confederacies in order to oppose the more powerful potentate, and prevent him from giving law to his neighbours. Such is the mode at present pursued by the sovereigns of Europe. They consider the two principal powers, which on that very account, are naturally rivals, as destined to be checks on each other; and they unite with the weaker, like so many weights thrown into the lighter scale, in order to keep it in equilibrium with the other. The house of Austria has long been the preponderating power: at present France is so in her turn. England, whose opulence and formidable fleets have a powerful influence, without alarming any state on the score of its liberty, because that nation seems cured of the rage of conquest—England, I say, has the glory of holding the political balance. She is attentive to preserve it in equilibrium:—a system of policy, which is in itself highly just and wise, and will ever entitle her to praise, as long as she continues to pursue it only by means of alliances, confederacies, and other methods equally lawful.’—Vattel, *Law of Nations* (1758), Eng. tr. ed. by Chitty (1834), 311–13. ‘Would the Right Honourable the Chancellor of the Exchequer [Pitt] himself declare, that we were no longer in a situation to hold the balance of power in Europe, and to be looked up to as the protector of its liberties? . . . As to the assertion that a poor cottager was not to be talked to in that manner, he must maintain that he was; and

notwithstanding the pressure of taxes under which the lower order of people in this country laboured, yet it was a comfort to hear that she was the balance of power, and the protector of the liberties of Europe.'—Fox, February 15, 1787, *Speeches* (1815), iii. 285; cf. his speech, November 27, 1787, *ibid.* iii. 331. 'If Europe does not conceive the independence and the equilibrium of the Empire to be in the very essence of the system of balanced power in Europe, and if the scheme of public law in Europe, a mass of laws upon which that independence and equilibrium are founded, be of no leading consequence as they are preserved or destroyed, all the politics of Europe for more than two centuries have been miserably erroneous.'—Burke, *Thoughts on French Affairs* (1791), *Works* (1823), vii. 28. Even the enormity of the crime of the partitioning of Poland—'the testament of the old Europe'—seemed to be mitigated, inasmuch as deference seemed to be paid to the principle of balance in the deed of partition. With true appreciation and foresight, Burke wrote in 1772 to 'a Prussian gentleman': 'Pray, dear sir, what is next? These powers will continue armed. Their arms must have employment. Poland was but a breakfast, and there are not many Polands to be found. Where will they dine? After all our love of tranquillity, and all expedients to preserve it, alas, poor Peace!'—*Correspondence* (1844), i. 403. The necessity of upholding a balance in Europe with a view to security is the central argument in Gentz' *State of Europe before and after the French Revolution* (an answer to Hauterive's *De l'État de la France à la Fin de l'An VIII*): see, more especially, in translation by Herries, 2nd ed., 1803, 17, 55, 92, 97–8, 122, 153, 223–4, 258, 261; and, on the partitioning of Poland, 112, 131–44. See also Bernard, *Four Lectures on Diplomacy* (1868), 97–100, and works mentioned in foot-note, p. 100.

D. SECRET DIPLOMACY OF LOUIS XV

The 'secret diplomacy' or 'secret correspondence' of Louis XV has its first beginnings in 1745, at the time of the *pourparlers* with the Polish nobles at Paris in the interest of the candidature of the Prince de Conti for the Polish throne. Conti was at first the chief agent of the King in *la diplomatie secrète*. It received impetus from the fall of d'Argenson in January 1747, and in 1750 is found in vigorous and widely-diffused activity. The Count de Broglie became attached to it on March 12, 1752, and two days later was nominated Ambassador to Poland. See Boutaric, *Correspondance secrète inédite de Louis XV* (1886); Le Duc de Broglie, *Le Secret du Roi* (1878), and *Politique de tous les Cabinets de l'Europe . . . contenant des Pièces authentiques sur la Correspondance secrète du Cte de Broglie . . .*; first published

in 1793 in 2 vols. ; later, with notes and commentaries and additions by Ségur, in 3 vols., 2nd ed. 1801, 3rd ed. 1802. Ségur's Preface of twenty pages and his notes are of great value, especially for their insight and suggestiveness. 'Le Comte de Broglie avoit trop d'esprit, et Favier trop de connoissances pour croire sincèrement qu'on pût, au milieu de la fluctuation des Cabinets de l'Europe, et des variations de leurs forces et de leurs projets, établir un système fédératif permanent ; ils devoient savoir qu'il n'existe pour aucune puissance, ni ami, ni ennemi naturel, que pour un temps plus ou moins long, et que les amitiés et les rivalités des Peuples doivent changer comme leur fortune et les caractères de ceux qui les gouvernent. Ce qu'on doit naturellement penser, c'est que le Ministère secret, imaginé par la méfiance du Monarque français, vouloit, pour se rendre utile, combattre le système du Ministère public . . . Les Mémoires du Comte de Broglie, le Tableau Politique de Favier, et les Doutes de ce même Auteur sur le Traité de 1756 [contained in *Politique de tous les Cabinets*], sont devenus des Ouvrages presque classiques aux yeux des nouveaux diplomates : le succès prodigieux qu'ils ont obtenu dans un temps où ils flattoient les préventions et les haines nationales, les a revêtus d'une autorité que je crois utile de combattre et d'affoiblir.'—i. (3rd ed.) 17, 18. 'Ce qui prouve sans réplique le vice de ce système, c'est que chacun des ambassadeurs qui ont eu part à cette correspondance, ignorée de leur chef, auroient, lorsqu'ils ont été ministres, blâmé et poursuivi avec animosité tout homme qui en auroit entretenu quelqu'une à leur insu.'—*Ibid.* 86-7 (from a note by Ségur).

E. FREDERICK THE GREAT ON PARLIAMENTS

The correspondence for 1757 and 1758 preserved in the Public Record Office, *Prussia*, 70-71, furnishes ample evidence of Frederick's growing distrust of the British Parliament in the early years of the war, and before his disposition of mind became one of fixed 'abuse'. See Holdernessee's letter to Mitchell, November 29, 1757 ; Mitchell to Holdernessee, November 28, 1757 ('During the whole Campaign England has done nothing, the Strength of the Nation was melted away in Faction') ; Holdernessee to Mitchell, December 12, 1757 ('You will have learnt, with Pleasure, the Unanimity with which the present Session of Parliament has been opened ; the Zeal with which the Protestant cause is supported ; and the cheerfulness with which People, in general, will bear the heavy Load. . . . An Attempt to send British troops abroad wou'd put the continuance of this happy Situation of Things at Home to the greatest Hazard ; and it is past doubt, that a unanimity in Parliament is, in this critical session, of much more

consequence to the Interests of Germany, than a few British troops joined to the Armies there could possibly be '); Mitchell to Holdernessee, December 25, 1757 (' I have no doubt His Prussian Majesty will be highly pleased with the affectionate Manner in which His Majesty has mentioned him to His Parliament, and with the Addresses of both Houses, but He will naturally say Words will no longer do, what succour will your Nation give to carry on the War next year? . . . What assurances can you give that your Nation will act with Vigour and Spirit, against the Common Enemy? or will this Winter be spent (as the last was) in fruitless Enquiries who is to be blamed for the late Miscarriages? '); Holdernessee to Mitchell (a strong letter), February 25, 1758; Mitchell to Holdernessee, December 11, 1758 (' His Prussian Majesty . . . congratulated me on the Harmony and Unanimity, which now prevail in the Councils of Great Britain, which he said was a most fortunate event for the Common Cause, and could not fail of being productive of the best effects, whether the Allies were obliged to carry on the War, or enabled to make an honourable and secure Peace ').

THE LITERATURE
OF
INTERNATIONAL RELATIONS

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I

Introductory

‘La diplomatie, traitée théoriquement, peut être ramenée à des principes fixes, parce qu’elle est fondée sur des préceptes plus ou moins positifs, et qu’elle a un objet précis et distinct, celui de régler les rapports qui existent ou doivent exister entre les divers États : dans son acception la plus étendue, c’est *la science des relations extérieures* ou *affaires étrangères des États*, et, dans un sens plus déterminé, *la science* ou *l’art des négociations*. La diversité et la mobilité de ces rapports dépendent de la formation et de l’origine des États, des principes constitutifs des gouvernements, de l’appréciation de leur puissance, réelle ou présumée, des variations de leur position relative, de leurs affinités, de leurs discordances, de la vicissitude des événements, etc., etc. Or, toutes ces données reposent sur autant de faits, dont la recherche, la comparaison et l’enchaînement peuvent très-bien devenir un objet d’étude ; et les nombreux ouvrages historiques, les collections de mémoires, de traités et de correspondances diplomatiques, sont autant de moyens d’instruction qui ne laissent que l’embarras du choix à celui qui se voit appelé à prendre part aux négociations et aux affaires. . . .

‘L’étude de la diplomatie proprement dite exige la connaissance spéciale :

- 1° Du *droit des gens naturel* et du *droit public universel*, qui renferment les maximes fondamentales de toute jurisprudence positive en matière politique ;
- 2° Du *droit des gens positif européen*, fondé sur les traités et les usages, lesquels, en modifiant les maximes fondamentales, ont réglé les rapports des nations, soit en paix, soit en guerre ;
- 3° Du *droit public des principaux États de l’Europe*, fondé sur les lois de chaque État ;

- 4° De l'histoire et de ses branches subsidiaires, particulièrement de l'histoire des guerres, des négociations et des traités des derniers siècles, qui servent à connaître la marche et la tendance des cabinets ;
- 5° Des divers systèmes politiques qui peuvent être mis en œuvre, tels que ceux de domination, d'équilibre, de confédération, etc. ;
- 6° De l'économie politique, qui enseigne comment les richesses sociales, indépendamment de l'organisation politique, se forment, se distribuent et se consomment ;
- 7° De la géographie et de la statistique des États ;
- 8° De la conduite des négociations, ou, pour mieux dire, de la marche à suivre dans la discussion des intérêts entre les États ;
- 9° De l'art d'écrire en affaires politiques, c'est-à-dire de composer et de rédiger les actes et offices auxquels les rapports entre les États donnent lieu.'

CHARLES DE MARTENS : *Le Guide diplomatique*, 4th ed. (1851), i. 1-2, 6-7.

'De tous les ministères de l'État celui des affaires étrangères est peut-être celui où il importe le plus d'assurer la stabilité des emplois, l'avancement par le mérite et le maintien des traditions ; car sa besogne se résume dans la défense de l'intérêt national contre l'intérêt étranger, et les erreurs en pareille matière sont d'autant plus graves qu'elles restent la plupart du temps irréparables. Une fausse combinaison dans l'administration intérieure se rectifie par une combinaison plus juste. Une bonne loi en abroge une mauvaise. Mais une démarche imprudente, une concession maladroite en diplomatie, une convention désavantageuse surtout, comment la retirer, lorsque la partie adverse la retient et s'en prévaut avec tout droit de la retenir et de s'en prévaloir ?'

DEFFAUDIS : *Questions diplomatiques* (1849) ; see Extract in *Le Guide diplomatique*, i. 335-67.

For such mastery as is attainable of problems of international policy at any point of time and contact in the relations of State to State particularity of knowledge is indispensable, and

that must be sought in special works and in the sources that bear upon each problem. The aim in what follows is to help towards forming the habit of mind that is required for appreciating questions of foreign policy. Rousseau, in a letter to the Marquis de Mirabeau, said of Politics that it is 'une science des calculs, des combinaisons, et des exceptions, selon les lieux, les temps et les circonstances'. In no region of politics have these words more pertinence and force than in that of international relations. In none is it more imperative to understand, and in none more difficult to allow for, the measure of prudence and the measure of justice contained in the means that are adopted for ends that have been sought or for such as have been attained, in varying degrees of achievement. 'Le grand art du diplomate' has been very aptly expressed as '*bien dire dans l'ordre convenable tout ce qui doit être dit, et rien au delà*'.¹ It is a condensation of the art almost violent in its terseness; and its assumption of the possibility of a nice adjustment, by a stroke of genius, of means to end must not be allowed to obscure the fact that, while the schooling in *le style diplomatique* may be precise and correct—while it may be possible to unite to 'la précision des idées la propriété des termes et la concision du style'—yet the fields of action and conduct are spacious and of mixed soils, and the cultivators are many and of many minds. The definition of the art of diplomacy which has been cited is one which is suggested more especially by the requirements of what is termed *le style diplomatique*, *le style de cour*, or *le style de chancellerie*. The art of writing letters and notes and of producing other compositions, whether they be merely polite or be sternly pertinent to the business on hand, is not the whole of the art of diplomacy. Even, however, within the exercise of that

¹ Charles de Martens, *Le Guide diplomatique* (4th ed.), ii. 5.

more particular art there are lessons of guidance that may serve as lessons of caution and warning to the student of history in his survey of international relations. There are, said the elder Charles Francis Adams,¹ three sorts of diplomatic composition which are habitually resorted to, in accordance with the traditional diplomacy, in meeting particular necessities. One is used when hostility is intended. 'The language is then courteous, but short, every word covering intelligible offence.' The second is used when dissatisfaction is to be expressed but no action is to follow. 'Then the notes are apt to be long and full of argument, with abundant citation of authorities, yet terminating with nothing but assurances of the highest consideration, *et cetera*.' The third is used when there prevails a sincere desire for harmony. 'Then the phrases are less studied and the intent more directly signified—the whole sense conveyed in brief notes.'² The effect of the difference between a letter in the first person and a note in the third is greater, it has been observed, than would be surmised by any one who has not been habituated to both modes in diplomatic intercourse. 'The third person, "The Under-signed," is stiff, cold, formal, and dignified; it is negotiation in court dress, bag wig, sword by side, chapeau de bras, white silk stockings, and patent shoe-buckles. Letters in the first person are negotiations in frock coat, pantaloons, half-boots, and a round hat.'³

The student of international relations needs precise as well as vast equipment in knowledge, but, not less, he needs equipment in a habit of mind.

¹ Son of John Quincy Adams, and grandson of John Adams; United States Minister to the Court of St. James, 1861–8.

² Quoted by W. V. Kellen in *Henry Wheaton: An Appreciation* (Boston, 1902), p. 31—a high and finely sympathetic tribute.

³ J. Q. Adams' *Memoirs*, iv. 327, quoted by J. W. Forster, *Practice of Diplomacy*, 76, and thence by Satow, *A Guide to Diplomatic Practice*, i. 69.

General Guide

The Cambridge Modern History, and *Histoire Générale*, edited by Lavissee et Rambaud, are written on a considerable scale, and should be used after a knowledge of European and general Modern History has been acquired on a smaller scale, e. g. from the eight volumes in the series entitled 'Periods of European History'.¹ In the volumes of this series will be found references, though too few, to secondary authorities bearing on each period. For more detailed study of a special period or a special subject in primary authorities as well as secondary, guidance adequate for most is provided in several recently published bibliographical lists, as in those appended to each volume of *The Cambridge Modern History*. No 'Manuel de Bibliographie historique' exists for the student of English history equal in scope and quality to *Les Archives de l'Histoire de France*, by MM. Langlois and Stein (Paris, 1891, pp. xvii + 1,000): 'un inventaire sommaire des archives de l'histoire de France. C'est un guide à travers les établissements où ces archives sont conservées. Nous entendons par "archives de l'histoire de France" la collection de tous les documents d'archives relatifs à l'histoire de France, c'est-à-dire les pièces officielles de toute espèce : chartes, comptes, enquêtes, etc., et les correspondances publiques ou privées' (*Introduction*, p. 1).

¹ Oman, *The Dark Ages*, 476-918; Tout, *The Empire and the Papacy*, 918-1273; Lodge, *The Close of the Middle Ages*, 1273-1494; Johnson, *Europe in the Sixteenth Century*, 1494-1598; Wakeman, *The Ascendancy of France*, 1598-1715; Hassall, *The Balance of Power*, 1715-89; Stephens, *Revolutionary Europe*, 1789-1815; Phillips, *Modern Europe*, 1815-99.

For the purposes of the student of international relations the following sections of this work are especially of use : Part I, ch. ii, Archives des Ministères : Ministère des Affaires Étrangères, pp. 45-50 ; in Part II—Les Archives de l'Histoire de France à l'Étranger—Archives d'État (Staatsarchiv) at Berlin, pp. 632-3 ; at Dresden, p. 634 ; at Munich, p. 637 ; at Vienna, pp. 646-9 ; at Budapest, pp. 649-50 ; in Belgium, pp. 665-6 ; at Simancas, pp. 700-2, with foot-notes ; in England, pp. 731-34 and 737-40 (for an account of the Public Record Office, see pp. 711 et seq., with valuable foot-notes) ; in Italy (see an account of the Vatican Archives, pp. 743 seq.), pp. 751-2 (rapports des nonces, *Archivio segreto Vaticano* : Secrétairerie d'État), pp. 758-76 (*Archivi di Stato*)¹ ; at the Hague, pp. 792-3 ; in Denmark, pp. 810-11 ; in Sweden, pp. 813-15 ; in Russia, pp. 820-1 ; in Switzerland, pp. 825-36.

¹ With reference to the *Despacci degli ambasciatori e residenti veneti all'estero*, the authors write, p. 774 : ' Les ambassadeurs des petits États italiens ont été de tout temps de fins observateurs ; ils tenaient de véritables journaux de l'histoire des cours auprès desquelles ils étaient accrédités, et, de nos jours, l'histoire de France, d'Angleterre, d'Allemagne s'est trouvée tout éclairée par les témoignages enfin mis au jour des rapports envoyés à leurs gouvernements par les envoyés pontificaux, toscans, piémontais, vénitiens. Les dépêches vénitiennes sont les plus célèbres. Celles de France sont au nombre de plus de 21,000, reliées en 268 liasses, de l'année 1554 à l'année 1797. Les dépêches antérieures à 1554 (la série commençait certainement au plus tard sous le règne de Louis XII, qui vit pour la première fois des ambassades régulières de la Seigneurie à la cour de France) semblent avoir été détruites par l'incendie dès la fin du xvi^e siècle . . . Les archives spéciales du Conseil des Dix renferment sous la rubrique *Lettres des ambassadeurs en différents pays adressées aux chefs du Conseil des Dix* des dépêches qu'en certaines circonstances les envoyés adressaient, non au Sénat, mais aux Dix. La plus ancienne, concernant la France, est du 19 juin 1500 ; la plus récente du 29 octobre 1700. La majeure partie (près de 300) appartient à la première moitié du xvi^e siècle.'

Juristic Literature: Development of International Understandings as 'Law'

This is a subject of great importance for the student of history. It shows a growth of principles and an accumulation of precedents that have resulted from the clash of interests, the sway of reason, and grinding necessity. Historically viewed, it resolves itself very largely into a study of compacts and of conventional morality.

1 (a). Wheaton (Henry), *History of the Law of Nations in Europe and America; from the earliest times to the Treaty of Washington*, 1842 (New York, 1845), pp. xiv + 797.

This work was originally written and published in French as a *Mémoire* in answer to a prize question, submitted for the year 1839, by the Academy of Moral and Political Sciences of the Institute of France: 'Quels sont les progrès qu'a fait le droit des gens en Europe depuis la Paix de Westphalie?' In rendering the work into English, the author made considerable extensions and additions, especially in the introductory part which treats of the history of the European law of nations before the Peace of Westphalia.¹

¹ Only one edition of the work in English was published, and the volume is now rare. Several editions were published in French—the date of the fourth being 1865 (Leipzig, 1865, 2 vols., pp. x + 403, and pp. vi + 410). A useful article on Wheaton's *History* was written by Nassau Senior for the *Edinburgh Review*, April 1843, reprinted in his *Historical and Philosophical Essays* (1865), i. 138–275. It contains some notes of dissent from Wheaton.

In his Preface Wheaton quoted one of the two or three passages from Austin's *Jurisprudence* which have been often plunged deep into the controversy whether International Law is really 'law' at all. It has been 'very justly observed', he says, that (quoting Austin) 'international law is founded only on the opinions generally received among civilized nations, and its duties are enforced only by moral sanctions: by fear on the part of nations, or by fear on the part of sovereigns, of provoking general hostility and incurring its probable evils, in case they should violate maxims generally received and respected'. But Wheaton adds that these motives do really afford, even in the worst of times, 'a considerable security for the observance of those rules of justice between states which are dictated by international morality, although they are deficient in that more perfect sanction annexed by the law-giver to the observance of a positive code proceeding from the command of a superiour'. His task was to show how the history of the progress of the science of international jurisprudence has been influenced by special compacts that have modified the general rules founded on reason and usage, and adapted them to the various exigencies of human society. Accordingly, he traced the progress of the sense of international right as it is marked not only in the writings of public jurists and in judicial decisions but also in 'the history of wars and negotiations, in the debates of legislative assemblies, and in the texts of treaties, from the earliest times of classic antiquity'. He believed that the general result of the survey was to show 'a considerable advance, both in the theory of international morality, and in the practical observance of the rules of justice among states, although this advance may not entirely correspond with the rapid progress of civilization in other respects'. This field of knowledge, he urged, deserves cultivation, for it is important to 'the jurist, the statesman, and the philanthropist'.

In a 'Conclusion' (pp. 759-60) the author summed up the general results of his retrospect from the Treaty of Westphalia. The chief of these are the following :

'That the pacific relations among nations have been maintained by the general establishment of permanent missions, and the general recognition of the immunities of public ministers.

'Although the right of intervention to preserve the "balance of power",¹ or to prevent the danger to which one country may be exposed by the domestic transactions of another, has been frequently assumed; yet no general rules have been discovered by which the occasions which may justify the exercise of this right, or the extent to which it may be carried, can be laid down; and that it remains, therefore, an undefined and undefinable exception to the mutual independence of nations.

'The exclusive dominion, claimed by certain powers over particular seas, has been abandoned as an obsolete pretension of barbarous times; the general use of the high seas, without the limits of any particular state, for the purposes of navigation, commerce, and fishing, has been conceded. . .

'The colonial monopoly, that fruitful source of wars, has nearly ceased; and with it, the question as to the right of neutrals to enjoy in war a commerce prohibited in time of peace.

'The African slave trade has been condemned by the opinion of all Christian nations, and prohibited by their separate laws, or by mutual treaty stipulations between them.

'The practices of war between civilized nations have been sensibly mitigated, and a comparison of the present modes of warfare with the system of Grotius will show the immense improvement which has taken place in the laws of war.

'Although there is still some uncertainty as to the rights of neutral navigation in time of war, a conventional law has been created by treaty, which shows a manifest advance

¹ The author's conclusion regarding the application of the right of intervention to preserve the balance of power is expressed less concisely in the fourth French edition of his work (Leipzig, 1865), ii. 405-8.

towards securing the commerce of nations which remain at peace, from interruption by those which are engaged in war.

'The sphere, within which the European law of nations operates, has been widely extended by the unqualified accession of the American states ; by the tendency of the Mahommedan powers to adopt the public law of Christendom ; and by the general feeling, even among less civilized nations, that there are rights which they may exact from others, and, consequently, duties which they may be required to fulfil.

'The law of nations, as a science, has advanced with the improvements in the principles and language of philosophy ; with our extended knowledge of the past and present condition of mankind resulting from deeper researches into the obscurer periods of history and the discovery of new regions of the globe ; and with the greater variety and importance of the questions to which the practical application of the system has given rise.

'And lastly, that the law of nations, as a system of positive rules regulating the mutual intercourse of sovereigns, has improved with the general improvement of civilization, of which it is one of the most valuable products.'

These conclusions are noteworthy as considered lessons drawn from a spacious and careful survey over a long stretch of time ; and they are noteworthy for the time at which they were drawn as well as by reason of the learning and diplomatic experience of their author.¹

The book contains a brief retrospect, in pp. 1-67, on ancient and mediaeval customs and law in international intercourse ; pp. 60-7 treat of the *Consolato del Mare*.² Although much

¹ Wheaton wrote his Preface to the English edition of his work at Berlin in November 1843. He was Minister of the United States at the Court of Berlin.

² See Pardessus, *Collection des lois maritimes antérieures au dix-huitième siècle* (6 vols., Paris, 1828-45)—a work cited by Wheaton, but not completed at the time he wrote ; also Pardessus, *Lois et coutumes de la mer, ou Collection des usages maritimes des peuples de l'antiquité et du moyen âge* (2 vols., Paris, 1847)—a reproduction of chapters 1-4 of the larger

of the historical exposition has to be checked by the results of more recent investigation, there are parts of Wheaton's work that are still of use to the student of history—the following especially: on conventional maritime law to 1713 (pp. 115-25); on contraband of war in the seventeenth century (pp. 126-45); on the right of visitation and search in the seventeenth century (pp. 145-52); on the dominion of the seas in the same century (pp. 152-61); on the Armed Neutrality of 1780 (pp. 295-306), and on maritime law from 1793 to 1807 (pp. 372-420—the Armed Neutrality of 1800, pp. 397-420); on intervention (pp. 80-2, with Fénelon's statement of the principle with a view to the maintenance of the balance of power, pp. 82-3; pp. 284-9, for 1788-92; pp. 345-66, for 1792-3; and pp. 518-63, for 1820-7¹—Naples, Spain, Portugal, Belgium, Greece); and on the balance of power (pp. 19-20, 80-1, 266-8, 345-6, 421-2).

(b) Nys, *Les Origines du Droit international* (1894), pp. v+414: an illuminating companion to text-books of European history: ch. i, *La Notion de la Science du Droit international au moyen âge*; ch. ii, *La Papauté et l'Empire*, including sections on Gregory VII, Innocent III, The Holy Roman

work together with the additions made to these chapters in the concluding volume of the first Collection. Wheaton's interest in maritime law had been shown as far back as 1815, when, at the age of thirty, he published a *Digest of the Law of Maritime Captures or Prizes*. The subject was of engrossing interest to his fellow-citizens as well as to European States, and had called forth a number of works, useful to the student of history, since 1800, the year of the second Armed Neutrality—works of which a good representative is Ward's *Treatise of the relative Rights and Duties of Belligerent and Neutral Powers in Maritime Affairs, in which the Principles of Armed Neutralities . . . are fully discussed* (1801). For the Armed Neutrality of 1780, see Martens, *Recueil de Traité*s, vol. iii, and for that of 1800, vol. vii.

¹ See also Stapleton, *Intervention and Non-Intervention of Great Britain, 1790-1865* (1866), and Reddaway, *The Monroe Doctrine* (1898); Wheaton's *Elements*, fifth ed., 90-125 (Monroe Doctrine, 97-101).

Empire, Dante and the *De Monarchia*, and Bartolus, and on the theory of the Empire and independent kingdoms; ch. iii, *Le Christianisme et la Guerre*; ch. vii, *La Guerre contre les Infidèles et contre les Hérétiques*; ch. viii, *L'Équilibre Européen*; ch. xiv, *La Diplomatie et les Ambassades permanentes*; ch. xvi, *La Liberté des Mers*; ch. xvii, *Les Irénistes*, including sections on *L'Église et la Trêve de Dieu*, *Le grand dessein de Henri IV*, and *L'Abbé de Saint-Pierre et la Paix perpétuelle*.

(c) Walker, *A History of the Law of Nations*, vol. i (1899)—*From the earliest times to the Peace of Westphalia*, pp. xxx + 361: the only volume published. The work supplements Wheaton's *History* on ancient times and the Middle Ages, and on the times and the teaching of Gentilis and Grotius. Pages 31-137 treat of 'The Evolution of International Law' to the close of the Middle Ages—pp. 31-6 on the Israelites, pp. 37-43 on the Greeks, pp. 43-57 on the Romans,¹ pp. 57-79 on the Roman Empire, and pp. 79-137 on the Middle Ages.

2. *Treatises of International Law*. It is well for the student of modern history, from at least about the middle of the eighteenth century, to come to know something of works on International Law that were actually used, and were influential, in each age—those, for example, of Vattel (*Le Droit des Gens* (1758)), of G. F. von Martens (*Précis du Droit des Gens moderne de l'Europe fondé sur les Traités et l'Usage* (1788)), and of Wheaton (*Elements of International Law* (1836)).

The Law of Nations Vattel defined as 'the science which teaches the rights subsisting between nations or states, and the obligations correspondent to those rights'.² Vattel's general

¹ See Phillipson, *International Law and Custom of Ancient Greece and Rome*.

² *The Law of Nations . . . from the French of Monsieur de Vattel*, by Joseph Chitty (1834), liii. Heeren (*The Political System of Europe*, transl.,

standpoint is seen in the sub-title to his work: 'Principles of the Law of Nature, applied to the Conduct and to the Affairs of Nations and Sovereigns'. He is not, however, a pure 'Naturalist': he is one of 'the Grotians' of the eighteenth century by reason of his intermediate position, neither absolutely Naturalist nor pronouncedly Positivist. This intermediate position made the appeal to him the readier, if also somewhat flexible, in the second half of the eighteenth century, and it combined with the clearness of his enunciations to give to his work a high place and long-continued influence in the conduct of diplomacy. For an Appendix to his *Remarks on the Policy of the Allies with respect to France* (1793), Burke made considerable extracts from Vattel's work, dealing principally with intervention and with the idea underlying 'the political system' of Europe.¹ 'Vattel,' said Fox, in the House of Commons, in January 1794, 'than whom I know of no man more eminent in the science on which he has written, has laid it down as a principle, that every independent nation has an undoubted right to regulate its form of government.'² 'My honourable friend,'³ he had remarked, in words immediately preceding,

'in attempting to prove that the origin of the war⁴ was not imputable to this country, treated the established principles of the law of nations with as little respect as M. Genet, the French minister to the United States of America. My honourable friend said that no dependence could be placed upon the authority of Vattel, with respect to the question of an interference in the internal affairs of other nations, and that arguments might be drawn from his work favourable to either side. He contended that there might exist circumstances of

Oxford, 1834, i. 11, foot-note) said of Vattel's *Le Droit des Gens* that it 'has obtained the highest authority among practical statesmen'.

¹ *Works* (1823), vii. 201-15.

² *Speeches* (1815), v. 156.

³ William Windham.

⁴ War with France, February 1793.

such a peculiar nature, as to supersede authority, and preclude the application of established principles. Exactly in the same manner reasoned M. Genet: "I would throw Vattel and Grotius into the sea," said that minister, "whenever their principles interfere with my notions of the rights of nations". Just so my honourable friend seems disposed to treat them whenever they controvert his ideas of those principles which ought to regulate our conduct in the present moment. Thus both, in order to suit their own convenience in departing from the established standard, give their sanction to a new code. I, however, more inclined as I am to adhere to the ancient standard, and to follow established rules of judging, hold the opinions of eminent men, dispassionately given on subjects which they have accurately studied, to be of considerable importance. I consider those opinions formed under circumstances most favourable to the discovery of truth, to be the result of unbiased inquiry, and minute investigation, and therefore entitled to great weight in regulating the conduct of nations. Those writers, in laying down their maxims, were not distracted by local prejudices or by partial interests; they reasoned upon great principles, and from a wide survey of the state of nations, and comparing the result of their own reflections with the lessons taught them by the experience of former ages, constructed that system, which they conceived to be of most extensive utility and universal application. From the system of such men I should be cautious to deviate.'¹

Appeal to the natural justice on which Vattel founded was more appropriate to the generous mind in politics, and especially to the exercise of that mind in Opposition in the person of Charles James Fox, than to the prudent temper and sagacious outlook of Pitt, the administrator, the pilot of the State amid the storms of war.

An example of the use of Vattel in the official conduct of international relations may be taken from the course of the controversy regarding contraband after the outbreak of the wars of the French Revolution. In April 1795 an Order in

¹ *Speeches*, v. 155-6.

Council instructed British cruisers to stop and detain all vessels that were laden, wholly or in part, with corn, flour, meal, and other articles of provisions, and that were bound to any port in France, and to send them into a British port in order that such corn and other provisions might be purchased on behalf of the British Government. The question of the legality of this Order was discussed before a mixed commission appointed, under the treaty of commerce and navigation between Great Britain and the United States in 1794, to decide on the claims of American citizens owing to irregular or illegal captures and condemnations of their property under the authority of the British Government. The Order in Council was supported on two grounds, although it was subsequently revoked. Firstly, it was urged that the Order was issued when there was a prospect of reducing the enemy to terms by famine, and in such circumstances provisions bound to the enemy's ports became so far contraband as to justify seizure of them by Britain, upon condition of the invoice price being paid, with a reasonable mercantile profit added, together with freight and demurrage. Secondly, it was urged that the Order was justifiable on the plea of necessity, since the British people at the time were threatened with a scarcity of the articles directed to be seized. The general law of nations was invoked in favour of the first of these positions, and the chief evidence cited was a passage from Vattel, as follows :

‘Commodities that are particularly useful in war and the importation of which to an enemy is prohibited, are called *contraband goods*. Such are arms, ammunition, timber for shipping and whatever is of service for the construction and armament of vessels of war, horses, and even provisions, in certain junctures, when there is a hope of reducing the enemy by famine.’¹

¹ Book III, ch. vii, § 12. Wheaton (*History*, 380-1) describes the passage as a ‘loose’ one, a ‘vague text’. Wheaton shows the use to which Vattel

‘It is not my disposition’, said Sir James Mackintosh, in reference to Vattel and his predecessors,

‘to over-rate the authority of this class of writers, or to consider authority in any case as a substitute for reason. But these eminent writers were at least necessarily impartial. Their weight, as bearing testimony to general sentiment and civilised usage, receives a new accession from every statesman who appeals to their writings, and from every year in which no contrary practice is established or hostile principles avowed. Their works are thus attested by successive generations to be records of the customs of the best times, and depositories of the deliberate and permanent judgments of the more enlightened part of mankind. Add to this, that their authority is usually invoked by the feeble, and despised by those who are strong enough to need no aid from moral sentiment, and to bid defiance to justice. I have never heard their principles questioned, but by those whose flagitious policy they had by anticipation condemned.’¹

It is a relief to the student of history and the appraiser of actual policy to pass from the qualified naturalism of Vattel to the clear-voiced positivism of G. F. von Martens. The change is as bracing as a course of *The Federalist* after a considerable dose of *The Social Contract*. It is highly appropriate that the author of the *Précis du Droit des Gens moderne* should be also the originator of the best Collection of Treaties; and the attitude of mind he brought to bear on his analysis and exposition of the law of nations is almost sufficiently revealed in the full title of his work. The work, which was first published in the year before the outbreak of the French Revolution,

was put on the question of Saxony at the Congress of Vienna, and on the question of the annexation of Genoa to the Kingdom of Sardinia in Sir James Mackintosh’s speech in the House of Commons, April 27, 1815: *History*, 426-7, 490-1; Mackintosh’s *Miscellaneous Works* (1851), 703-4, and footnote.

¹ Speech, April 27, 1815.

was entitled *Précis du Droit des Gens moderne, fondé sur les Traités et l'Usage*.¹ It might well appear, as he admitted in 1801, in the Preface to the second French edition of his work, that the European convulsions resulting from the Revolution in France, and that the triumph of might which these convulsions seemed to make manifest and even to be justifying by events, had cut away the ground in standpoint and reasoning that had been appropriate enough before the bursting of the storm in 1789. Even in the Preface, written in 1820, to the third edition, the author could still, however, record his tribute to the immutable principles of natural law which serves as the basis of international rights. But his work was not rendered obsolete, just because even from its first inception it was designed to be of use in the practice of affairs, and for the author that claim may be made which was put forward for himself by the hard student of fact and observer of forces and power: writing for such as can see his meaning, he deemed it the more feasible course to be taken in tow by the truth showing itself in accomplished facts, than to follow vain imaginings.² 'You are a teacher of public law; that will have to be modernized. Does not public law consist to-day simply in the right of the stronger?' Thus was Martens

¹ The full title is not given by Vergé in his edition (Paris, 2 vols., 1858). The work was developed from a work written in Latin by the author, and published in 1785. An edition in German, translated by the author, appeared in 1796; a second edition in French in 1801, a third in 1820, a fourth in 1831, with notes by Pinheiro-Ferreira. The edition of M. Ch. Vergé is the fifth in French. An English translation made by William Cobbett—in parts a paraphrase—was published at Philadelphia in 1794, and, according to Cobbett himself, was subscribed to by the President, the Vice-President, and every member of the Congress ('Advertisement to the first London edition'). Cobbett's translation was published in England in 1802 for the first time; a fourth edition appeared in 1829.

² *The Prince*, ch. 15.

addressed by Napoleon when he made his hurried visit to the Congress of Rastatt, the phantom Congress with tragic sequel ; and Martens is one of the earliest of the publicists who could disentangle truth from exaggerations and phantasies in the claims of might and conquerors, as far as truth is seen in the working of its way through the accomplished fact, if it give not the lie to reason in a manner too point-blank for rational beings.

The character and scope of Martens' book are very well shown in the general plan of the work as it was stated by him in the Preface to the first edition. It was necessary to take a view of the different nations of which Europe is composed. He examines the question how far and in what light they may be regarded as parts of a whole, and this question could not be determined without considering the effect of a diversity of dignity, power, constitution, and religion. This inquiry he looked upon as the natural starting-point for an understanding of the laws (*droits*) which custom and treaties have established in Europe, and it forms the subject-matter of the first book of his treatise. Any student of constitutions and politics could to-day append his notes of acquired knowledge and his mental reservations to these preliminary, yet essential, disquisitions. But they are usually practical, terse, and pointed, like these few words on democracies :

‘ Dans les États purement démocratiques, le peuple, en réunissant en ses mains les trois pouvoirs,¹ est despote ; il peut plus que le monarque le plus absolu : il peut annuler sa constitution ; et le pouvoir le plus arbitraire exercé sur ses membres se couvre du voile de la volonté de tous.’²

His special subject is the positive law of nations—the whole of the rights and obligations actually established between nations. What has become a law in the intercourse of two or three or even the majority of the Powers of Europe, whether

¹ Legislative, executive, judicative.

² Book I, ch. iii, § 28.

by treaty or from custom, need not establish rights and obligations for the other Powers. Still, by comparing the treaties that the Powers of Europe have made among themselves, one with another, we are led to certain principles that have been adopted almost universally by Powers that have made treaties on the same subject. Similarly with regard to custom : when a custom has been respected by the majority of the Powers of Europe, especially of the great Powers, its adoption by other Powers becomes easy, if it is at all applicable to them. As much cannot be said of express conventions. Still, it is often the case that a treaty made by two or more Powers serves as a model for treaties of the same kind to be made by other Powers. What is done by one Power in virtue of treaty is observed in others as custom. It may be that in certain matters the rule is founded on treaty for some States, and on custom for others.¹

The importance assigned by Martens to treaties as an assured, though in itself imperfect, foundation of rights and obligations is the feature of his work that most emphatically commends it to the student of history. He alludes with special approval to those of his precursors, like Leibnitz,² who have based their knowledge and reasoning upon treaties and other public acts. His habit of mind and point of view are shown very clearly and strikingly in the classes of books that he holds to be necessary for those who study the positive Law of Nations ; and his citation of works ³ still has considerable independent value. The following classes of books are, he thought, necessary : collections of treaties ; collections of other public acts ; ⁴

¹ Especially Introduction, § 7, vol. i, pp. 47-8, of the ed. of 1858.

² *Codex Iuris Gentium Diplomaticus* (1693).

³ i, pp. 68-76, ed. 1858. See, further, the useful *Bibliographie raisonnée*, ii, pp. 385-436.

⁴ e.g. Lamberty, *Mémoires pour servir à l'histoire du dix-huitième siècle*,

political journals¹; histories and biographies; memoirs of ambassadors; systematic treatises, dissertations and miscellaneous writings on the Law of Nations.

On the Balance of Power Martens writes tersely and with pertinence. In all ages nations have looked with jealous eyes on the disproportionate aggrandizement of any one of their number. But it was in the sixteenth century, in the rivalry of the House of Austria and the Kings of France, that the principle had its origin as a considered basis of action, assuming, no doubt, various guises, but without ever entirely losing sight of the end in view.² From the close of the seventeenth century Great Britain had been a leader in guarding this principle as though it were one of the accepted principles of the Law of Nations. The principle may be applied also in its particular bearings on parts of Europe or of the world. There may be a balance of power among Powers for the east of Europe, or the west, or the north, or the south. There may be a balance among the States of Italy, or those of Germany. Questions may be raised of a colonial balance in America, and of a maritime balance. It is not merely the acquisition of territory that needs to be watched. There are other ways in which the equilibrium may be disturbed. Alliances between powerful States may compromise the existing security, or a State which

contenant les négociations, traités, etc., concernant les affaires d'État, for the first half of the century, 14 vols. (1724 sqq.).

¹ e.g. *Die europäische Fama: Le Mercure historique et politique; Staatsarchiv.*

² The following works had influence in shaping thought on the principle of a balance down to the outbreak of the French Revolution: Le baron dell' Isola, *Le bouclier de l'État et de justice*, 1667; Lehmann, *Trutina Europae*, 1710; Kahle, *De Trutina Europae, quae vulgo appellatur 'die Balance'*, *praecipua belli et pacis norma*, 1744; Justi, *Chimäre des Gleichgewichts von Europa*, 1758; Hertzberg, *Dissertation sur la véritable richesse des États, la Balance du commerce et celle du pouvoir*, 1786.

has served as a useful counterpoise may be so enfeebled as to affect the situation not less than the aggrandizement of one of the Powers.¹

The effect of the Wars of the French Revolution, and of Napoleon on the authority to be accorded to a law of nations was such as to suspend the growth of international understanding without destroying the idea of balance. Two opinions expressed about the middle of the nineteenth century may be taken as typical of the judgements of men of learning and of thought and of wise and hopeful outlook after the effects of the convulsions of twenty-five years had spent themselves.

‘La révolution française et l’empire,’ says M. Ch. Vergé, the editor of Martens’s *Précis du Droit des Gens moderne*,² ‘et les guerres d’opinion et de rivalité politique qui signalèrent cette période d’histoire moderne suspendirent les progrès de la conciliation européenne, sans ruiner l’idée de l’équilibre. Plus d’une fois, l’aveuglement des passions entraîna des violations du droit des gens : l’assassinat des plénipotentiaires français à Rastadt, le blocus continental, la prédominance menaçante de la France et son abaissement exagéré par les rancunes et les colères survivant à la chute de l’empire étaient de manifestes dérogations aux règles mêmes de la guerre légitime ; mais, dès 1814, malgré les ressentiments issus de vingt-cinq ans de lutte, on s’appliqua à raffermir par des traités les principes du droit et à assurer le maintien de la paix par une sorte de contrat européen. Le temps devait compléter cette œuvre, il la rectifiera progressivement.’

‘The danger of universal monarchy,’ wrote Wheaton in his *History of the Law of Nations*,³ ‘once, perhaps, vainly appre-

¹ Martens, Bk. iv, ch. i.

² Edition of 1858, i. xvii, in a dissertation, pp. i-lvii, on ‘Le Droit des Gens avant et depuis 1789’.

³ p. 422.

hended from the ambitious designs of the houses of Austria and Bourbon, was at last realized from the genius of one man, who wielded with unexampled energy the vast natural resources of France, whose power of aggression had been fearfully augmented by revolution and conquest. This long protracted and violent struggle was too often marked in its course by the most flagrant violations of the positive law of nations, almost always accompanied, however, by a formal recognition of its general maxims, and excused or palliated on the ground of overruling necessity, or the example of others justifying a resort to retaliation. The mighty convulsion, in which all the moral elements of European society seemed to be mingled in confusion, at last subsided, leaving behind it fewer traces of its destructive progress than might have been expected, so far as regards a general respect for the rules of justice acknowledged by civilized communities in their mutual intercourse.'

Of Henry Wheaton's *Elements of International Law* little need be said. It is a standard work, on which the author's *History* may be taken as the best commentary. The work was published first in 1836 at Philadelphia and at London. It was published again at Philadelphia in 1844. Later it was issued in French, at Leipzig in 1848, and at Paris in 1852 and 1853. The first English edition proper was published at London in 1878; the fifth¹ was published in 1916. In the words of a German appreciation of Wheaton as the historian of International Law, the author united the accomplishments of a public jurist and of a practical diplomat—of the school of Franklin and Jefferson—to those of a scholar with an established reputa-

¹ Edited by C. Phillipson. The historical portions have been retained and expanded. Examples of conduct from recent wars have been added, and the references to cases have been increased. It is necessary for the unwary reader to distinguish between the original text and the editor's additions.

tion.¹ Similar in its content and spirit is the appreciation of a highly qualified English authority of to-day. In Wheaton's *Elements*, says Sir Frederick Pollock in an Introduction to the fifth English edition of the work, those principles that make up the Law of Nations and that, 'down to the present war,' have been 'fairly well observed by most nations and ostensibly respected by all, in spite of lacking any defined sanction', have been expounded 'on a more spacious historical scene and with more detailed illustration than can be found in most modern text-books. Wheaton stands for the opinions received or allowed among the best instructed publicists during the period following the Congress of Vienna, sometimes called the Forty Years' Peace.' He had the qualifications of 'a good scholarly lawyer of the first generation of American independence'; and these, added to his combination of forensic, judicial, and diplomatic experience, 'gave him almost unique advantage in handling this subject'.²

Of more recent works on International Law only three need here be mentioned—that of Sir Robert Phillimore, that of Sir Travers Twiss, and that of Mr. W. E. Hall. Phillimore's *Commentaries upon International Law*—a work in four volumes—appeared first in the years 1854–61. A third edition was published from 1879 to 1889. In a Preface, repeated from the first edition, the author gives a sketch (pp. xv–xxvi) of the history of International Law, and proceeds to a history (pp. xxvi–l) of International Jurisprudence in England. For the work of Grotius he claims that 'no uninspired work has more largely contributed to the welfare of the Commonwealth of States. It is a monument which can only perish with the civilized intercourse of nations, of which it has laid down the master principles with a master's hand. Grotius first awakened the

¹ See Kellen, *Henry Wheaton* (Boston, 1902), p. 45.

² See pp. xxxix–xliv of the fifth English edition (1916) of the *Elements*.

conscience of Governments to the Christian sense of international duty' (p. xxiv).

For the student of history, and of International Law in its historical development and historical aspects, the following parts of the *Commentaries* are especially useful: (1) vol. i, pt. i, ch. vi, pp. 45-61 on Treaties; vol. i, pt. iii, ch. vi, pp. 257-62 on the Narrow Seas, as distinguished from the Ocean (with references to the contentions of Grotius and Selden); vol. i, pt. iv, ch. i, pp. 553-638 on the Principle of Intervention, and more especially, in pp. 574-614, on the Balance of Power as a Corollary of the Right of Self-Defence, with historical allusions; vol. ii, pt. viii, on the International Status of Foreign Spiritual Powers, especially on the Pope, pp. 343-540, and more especially ch. v, pp. 401-14, the International Status of the Papacy between the period of the promulgation of the canon law and the Council of Trent, and ch. vi, pp. 415-26, from 1563 to 1870.

The author interprets in prudent terms the doctrine of the Balance of Power.¹ He lays stress on the Treaty of Utrecht as marking the time from which 'the recognition of the system of balance' may be dated; and the language of the treaty can be cited as evidence of the importance ascribed to the restoration of the balance. The treaty was made *ad conservandum in Europa equilibrium*.² The doctrine 'certainly is liable to abuse, but, fairly explained, means no more than the right of timely provision of a probable danger'.³

The Law of Nations of Sir Travers Twiss was published in 1861-3, in two volumes, of which the first treats of the rights and duties of nations in time of peace, and the second of their rights and duties in time of war. A second edition of the second volume appeared in 1875, and of the first volume in

¹ See especially *Commentaries*, vol. i (3rd ed.), pp. 580, 581, 614.

² Koch, ii. 92.

³ *Commentaries*, i. p. 580.

1884. The second edition of the volume on War contained (pp. xix-xliv) 'An Introductory Juridical Review of the Results of Recent Wars' and an Appendix (pp. 511-608) of Treaties and other documents—the Congress of Paris, 1856 (pp. 511-18), the Declaration of Paris, 1856 (pp. 518-23)¹; the Convention of Geneva, 1864 (pp. 524-36); the Convention of Geneva, 1868 (pp. 536-57);² the Declaration of St. Petersburg, 1868, 'relative à l'interdiction des balles explosibles en temps de guerre' (pp. 557-61);³ Protocols of the Conferences of London, 1871 (pp. 561-78); Treaty of London, 1871 (pp. 578-89); Convention of London between Russia and Turkey, 1871 (pp. 589-93); the Foreign Enlistment Act, 1870 (pp. 594-608).

A very fine tribute is rendered to Grotius in the Introduction to the first volume. 'It was an apt remark on the part of his Excellency Kuo-Taj-in, the first Envoy-Extraordinary and Minister-Plenipotentiary accredited from China to the Court of St. James, that he found the European Law of Nations to be a "very young Law"; but he also observed that since the age of Grotius wars had been less frequent in Europe, and less sanguinary.' The concluding words must now be summarily dismissed. But the appreciation by Sir Travers Twiss himself is still valid. The treatise of Grotius, he tells us, was subjected to much opposition during its author's life-time, and both in England and on the Continent there have been critics who have objected to both the method and the doctrine of Grotius. They have maintained that the maxims which he inculcates as founded on the equality of nations 'went to destroy the three cardinal principles of the Civil Law, often quoted as "the Ulpianic precepts", to wit, "Honeste vivere, Alterum non

¹ For the proceedings of the Congress and the treaties resulting, see Martens, *Nouveau Recueil général des Traités*, xv, pp. 700-94.

² Martens, xviii, p. 607.

³ Martens, xviii, p. 450.

laedere, Suum cuique tribuere”'. Further, it has been contended that the doctrine of a Law of Nations, as resting upon the common agreement of mankind, was merely an empty fiction, to which nothing corresponds in fact. But, says Sir Travers Twiss, Grotius did not intend to set up a rule like that which theologians have termed the Golden Rule of Vincentius Lirinensis, ‘Quod semper et ubique et ab omnibus’; and he quotes the words of Grotius himself:¹ ‘There are two ways of investigating the Law of Nations. We ascertain this Law, either by arguing from the nature and circumstances of mankind, or by observing what is generally approved by all Nations, or at least by all civilized Nations. The former is the more certain of the two, but the latter will lead us, if not with certainty, yet with a high degree of probability, to the knowledge of this Law; for such an universal approbation must arise from some universal principle, and this principle can be nothing else than the common sense or reason of mankind.’

Two opinions have already been cited regarding the effects of the upheavals of the era of the French Revolution and Napoleon. Even more emphatic in its favourable view is the estimate of Sir Travers Twiss. It is not too much to say, he remarks, that ‘in accordance with the maxim “La guerre enfante le Droit”, the twenty years of almost uninterrupted warfare, during which the First Napoleon endeavoured to erect an Empire, only second to that of Charlemagne, on the foundations of the French Republic of 1793, evoked a spirit of combined action among the Nations of Europe, cemented by a carefully considered system of General Treaties, the outcome of which has been an European Concert of Public Law’. The result has been that each State, without surrendering or ignoring its special interests, has also interests that belong to it in common with the general body of States. ‘The

¹ Bk. I, ch. I, § 3.

natural independence of the individual States has been, in certain matters, subordinated to the general welfare of the European community.' This result has not been brought about without involving from time to time departures from established usage. The method of achieving the result has been that of consultations among the leading European Powers assembled in Congress, and recording in the Protocols of their Conferences the principles upon which their conclusions have been based, to which, moreover, it has been usual to invite the adherence of the Powers not themselves represented at the Congress.¹ When Sir Travers Twiss, writing in 1863, fixed his mind on War and the Rights of War, a like spirit of optimism prevailed with him. History, he said, in its relation to the History of War, may truly be regarded as Philosophy teaching by example; and the wider and more complete the historical survey the more irresistible will be the conclusion, that 'the employment of Force on the part of Nations in the prosecution of Right against other Nations has become subject to Rules, which are in accordance with Reason, and have the Common Weal for their object'.²

The work of Sir Travers Twiss has lately been described as 'a necessary book for the student';³ and the fact that the judgement comes from one who has himself been busied with diplomacy, taken together with the publication of a French translation of the book twenty years ago, gives force to the estimate. We are concerned here more especially with such parts of the author's subject and his treatment of them as are

¹ Introduction to second edition of the volume on Peace, pp. xxx-xxxi. For an appreciation of the 'high vocation' of the diplomatist, and of the purpose and ideal in the foundation of the Chichele Professorship of 'International Law and Diplomacy', see pp. xxxvi-vii.

² Preface to the first edition of the volume on War.

³ Satow, *Diplomatic Practice* (1917), ii. 371.

of value to the student of history. Attention may be directed particularly, in the volume on Peace, to ch. iii on National State-Systems of Christendom, ch. iv on the Ottoman Empire, ch. v on the Kingdoms of the Lower Danube, and ch. xiii on the Right of Treaty; and in the volume on War to ch. v on Rights of a Belligerent on the High Seas (with an interesting historical retrospect),¹ and ch. vii on Contraband of War.

Of Mr. W. E. Hall's *Treatise of International Law*, published in 1880, it has been said by the author of a recent work of distinction on the subject that it 'at once won the attention of the whole world; it is one of the best books on the subject that have ever been written'.² The author's attachment to facts, the distance by which he is separated from the deductive and transcendental school of writers on the subject, and the soundness of his judgement³ make his work a natural and serviceable ally of the historian and of the student of policy. An Appendix on 'The Formation of the Conception of International Law' may well be taken as a starting-point by the reader of Wheaton's *History* or of substitutes for that work. For the historical student the following parts of the book are of

¹ For example, § 74 on the office of Admiral, § 75 on Admiralty jurisdiction of Nations, § 76 on Customs of the Sea, and §§ 83, 84, 85 on 'systematic departures from the Rule of the Consolato del Mar'.

² L. Oppenheim, *International Law* (1907), vol. i, p. 93. Mr. Oppenheim's work is, on the whole, a little more easily read than Hall's. The following parts have value for the historical student: vol. i (2nd ed., 1912), pp. 45-59 on development of international law before Grotius, and pp. 59-83 on development after Grotius; pp. 188-99 on intervention (the Monroe Doctrine, pp. 196-9); pp. 315-20 on freedom of the open sea; vol. ii, pp. 347-60 on neutrality, from the Middle Ages. An Appendix gives the texts of the Declaration of Paris, 1856; the Geneva Convention, 1906; the Final Act of the Second Hague Peace Conference, 1907; the Declaration of London, 1907, including the Report of the Drafting Committee.

³ Satow, *Diplomatic Practice*, ii, p. 371.

value, the pages being those of the sixth edition,¹ published in 1909: pp. 1-16, on the views held as to the origin and nature of International Law (with foot-notes, pp. 2-3), and on the value of treaties (how far are they expressive of a movement of thought?); pp. 140-51, on the extent to which the sea can be appropriated (a consideration of facts and conditions from the sixteenth to the nineteenth century); pp. 337-52, on the interpretation of treaties, their effects, execution, and extinction, with historical illustrations; pp. 373-4, on wars of the seventeenth and eighteenth centuries 'begun' without 'declarations'; pp. 571-87, on the growth of the law affecting belligerent and neutral States to the close of the eighteenth century; pp. 631-4, on 'the rule of the war of 1756', and its extension in 1793; pp. 638-48, on contraband from the seventeenth to the nineteenth century; pp. 705-6, with foot-notes, on blockade; and pp. 715-22, on neutral ships and enemy goods. A valuable feature of Mr. Hall's work is the considerable number of references it gives to State Papers.

The standard work on cases in International Law is that of Martens,² *Causes célèbres du droit des gens*,³ first published in 1827. Mr. Pitt Cobbett's *Leading Cases and Opinions on International Law*⁴ is well arranged, but at only a few points is of value to the historical student: pp. 144-8, on the Silesian Loan⁵—a lucid exposition; pp. 292-5, on neutral trade from

¹ Edited by Atlay, pp. xxiv + 768.

² Charles de Martens, nephew of G. F. von Martens, and author of *Le Guide diplomatique*.

³ 2 vols. (Leipzig), 1827, and *Nouvelles causes célèbres*, 2 vols., 1844. A second edition of the work was published in five volumes in 1858-61.

⁴ 1885; 2nd ed. 1892, pp. xxiv + 385.

⁵ Martens, *Causes célèbres*, ii. 97. See also Sir Ernest Satow, *The Silesian Loan and Frederick the Great*, 1915, pp. 448. There is a chapter of twenty pages on 'Prize Law in the first half of the Eighteenth Century'.

about 1800 to 1856 ; pp. 330-3, on the rule of 1756 (Sir William Scott's judgement in the 'Immanuel' case, with a very clear note on the rule); and pp. 330-40, on the doctrine of continuous voyages (cases of 1806 and 1863).

The connexion between international law, diplomacy, and the government of the society of nations has been thus expounded in the course of a concise and highly useful essay on 'The Modern Law of Nations and the Prevention of War':¹ 'Official, judicial, and other learned persons who cannot conceive authority divested of official sanction have gravely pointed out that Grotius and his successors, not being legislators, could not make law. More than twenty years ago, Sir Henry Maine gave the right answer: "What we have to notice," he said, "is that the founders of International Law, though they did not create a sanction, created a law-abiding sentiment. They diffused, among sovereigns, and the literate classes in communities, a strong repugnance to the neglect or breach

There is a section on the Prussian diplomatic service at the opening of the fifteenth chapter ('Reconciliation of George II and Frederick the Great. Negotiations through the Duke of Brunswick, and then through Michell').

¹ By Sir Frederick Pollock in *The Cambridge Modern History*, vol. xii (1910), ch. xxii, pp. 711-12. The chapter treats of the Law of Nature and the Law of Nations, of the influence of chivalry and the Church, of Gentili, of Hooker, of the achievement of Grotius, of (1) the authority of writers, (2) treaties and conventions, and (3) the embodiment of general opinion in the usage of nations, of arbitration, the Hague Conferences, the Concert of Europe, and 'the ideal European system'. 'It would seem that the formation of any such system can be looked for only when the political institutions and ideas prevailing in the chief nations of the world have become much more nearly uniform than they are; and it is far from clear that the present tendency is to approximate, for the fashion—a passing one, let us hope—is rather to exaggerate national and racial differences' (p. 720).

of certain rules regulating the relations and actions of States. They did this not by threatening punishments, but by the alternative and older method, long known in Europe and Asia, of creating a strong approval of a certain body of rules." To put it in a slightly different way, they were able to mould the custom of princes and their advisers while it was still plastic; and it took form as a real though imperfect customary law, not a mere assemblage of moral precepts. Ever since the time of Grotius these questions have been treated as belonging to jurisprudence, not to theology or casuistry, and have been handled in the manner of legal argument and not of merely moral persuasion. It may be and often is disputed what is the true rule, or how it is to be applied in particular cases; but the rule, ascertained or not ascertained, is conceived as an ordinance of justice, and not a counsel of perfection. Beyond the domain of positive duty there is a region for governments in the society of nations, as for individual citizens within a State, where rights may be exercised in a more or less friendly spirit, with greater or less consideration for the convenience of others, equitably or with insistence on the letter of the bond, stiffly or with readiness to give and take; and no formal ground of complaint is afforded by conduct which, though it may be displeasing or barely civil, is still within the scope of lawful discretion; as in municipal jurisdiction an action will not lie against a man for many things which do not become the character of an amiable neighbour. In this region the skill and tact of diplomatists finds much of its every-day work, and by no means the least important.'

*Illustrations of Controversial Literature : 'The
Sovereignty of the Sea'*

Two of the best subjects of this class for study are the origins of 'the rule of the war of 1756', and its effects, and the origins of the Continental System of Napoleon. But we shall take an example of a still more special kind—that of the sovereignty of the British or 'Narrow' Seas.¹

Readers of Samuel Pepys will remember that there were issues involved in the claim which seemed to him to require patient and diligent research. 'I am now full of study about writing something about our making of strangers strike to us at sea ; and so am altogether reading Selden and Grotius, and such other authors to that purpose.'² 'I spoke to Mr. Falconberge to look whether he could, out of Domesday Book, give me any thing concerning the sea, and the dominion thereof ; which he says he will look after.'³ 'I am upon writing a little treatise to present to the Duke, about our privilege in the seas, as to other nations striking their flag to us.'⁴

'The assertion of the sovereignty of the seas', writes Mr. Gardiner,⁵ 'meant nothing less than an assertion that the whole of the English Channel to the shores of France, and of

¹ For an account of the subject see Walker, *History of the Law of Nations*, pp. 278-83 ; Hall, *International Law* (6th ed.), pp. 140-51 ; and Oppenheim, *International Law* (1905), i, pp. 300-8.

² December 15, 1661.

³ December 21, 1661.

⁴ December 31, 1661.

⁵ *History of England*, 1603-42, vol. vii (Cabinet ed.), 358.

the North Sea to the shores of Flanders and Holland, was as completely under the dominion of the King of England as Kent or Yorkshire. To fish in those waters, or even to navigate them without his permission, was an encroachment on his rights.’ ‘Monstrous’ as the claim was, says Mr. Gardiner, its appeal to the English contempt of foreigners was too strong to be without an echo in the hearts of Englishmen. The preposterousness of the claim, when it is viewed in all the length and breadth of its extremest pretensions, may be admitted as freely and denounced as severely as it has been by the most accurate and dispassionate of the historians of the England of the seventeenth century. But a claim which has attached to it a considerable history and a vast body of thought and writing, antecedent, contemporary and subsequent, and which engaged the minds of two¹ of the most erudite authors of that time, by whatsoever motive they were impelled to write, cannot be dismissed as unworthy of serious and even exacting study. The purport of the leading works in the history of

¹ Grotius, ‘the wondrous child’ and scholar, and Selden, ‘the glory of England’. Grotius’s *Mare Liberum, seu de iure, quod Batavis competit ad Indicana commercia, Dissertatio* was published anonymously in November 1608. It formed the twelfth chapter of his work, *De Iure Praedae*, which was written in 1604–5. The manuscript of this work, written when the author was only twenty-one years of age, was not discovered till 1864. It was published in 1868. Grotius studied under Scaliger at the University of Leyden, which he entered at the age of eleven. At the age of fifteen he took the degree of Doctor of Laws at Orleans, and at the same age accompanied an embassy to the French Court. He thereupon practised law. As a lawyer he had to argue in favour of the lawfulness of the capture of a Portuguese galleon by the Dutch East India Company. In his written work he contended that the sea cannot be taken into possession through ‘occupation’ and cannot be made State property: the sea is free to all: in spite of Portuguese interdictions from eastern waters the Dutch have a right to navigation and commerce with the Indies. Cf. *De Iure Belli ac Pacis*, ii, c. 3.

the subject, whether general or national and special, is lucidly, though in brief, presented by M. Ernest Nys in the chapter on 'La Liberté des Mers' in his work *Les Origines du Droit international*. 'Le droit romain range la mer parmi les choses qui, en vertu du droit naturel, sont communes à tous. Au moyen âge, dès que le commerce maritime prend de l'importance, dès qu'il devient l'un des grands facteurs de la richesse publique, apparaissent les prétentions des gouvernements sur certaines mers.'¹

Material for a study of the subject from the standpoint of the interests and claims of England in the seventeenth century will be found in a recently published work on *The Sovereignty of the Sea*,² and in Gardiner's *History*.³ The volume of the Navy Records Society on *Law and Custom of the Sea*⁴ contains supplementary material of historical value.

¹ Nys (1894), p. 379. See Walker, *History*, i, p. 246, for Vasquez, a Spanish official (1509-66) and author (1564)—a precursor of Grotius for Mare Liberum; and pp. 278-83 for a summary of Grotius's book thus entitled. Grotius, c. vii, alludes to Vasquez (Vasquius) as 'decus illud Hispaniae, cuius nec in explorando iure subtilitatem, nec in docendo libertatem umquam desideres'. Vasquez was anticipated by the Spanish theologian and Franciscan monk, Alphonso de Castro (d. in 1558), in opposing the claims of the Genoese and Venetians to prohibit other nations from navigating the gulfs or bays of their respective seas. See Grotius, c. vii; and Nys, p. 352.

² Fulton (1911), pp. xxvi + 799.

³ Especially vol. iii (Cabinet ed.), pp. 164-5 (on Grotius); vii, pp. 357-8, viii, p. 79, and 154-5 (on Selden); and *The History of the Commonwealth and Protectorate*, vol. ii (Cabinet ed.), p. 172.

⁴ Vol. i, 1205-1648, published in 1915: see pp. 484-90, 'Reglement of the Narrow Seas', 1634, setting forth the King of England's Sovereignty in the four seas—'the seas commonly called the four English seas' (see *State Papers*, Domestic, cclxxix, No. 18), and p. 509 on the salute to the flag—the 'Vail'. Article 19 in the Treaty of Breda, 1667, and Article 4 in the Treaty of Westminster, 1674, deal with the Vail. See also, for Tromp's *Memorandum*, Fulton, Appendix 1, p. 770.

The subject had much attention from Alberico Gentili, both in professional practice, when he was an advocate of Spanish claims in English prize courts, and in his posthumous work, *Advocationis Hispanicae Libri Duo*,¹ in which there is a defence of the claims of sovereignty asserted by English kings over the British seas; and the arguments are noteworthy as coming from a learned Italian, Professor of Civil Law at Oxford, and the supplanter of Grotius as the reputed Founder of International Law. But there are three writers, British by birth, whose works make a special appeal to students of contemporary British thought on this subject. One of them is a Scotsman, and two are Englishmen.

As early as 1590 William Welwod published *The Sea-Law of Scotland*—a book now extremely rare.² To this work there

¹ Published in 1615, two years after his death. Gentili's book *De Iure Belli* was published in 1588.

² There is a copy of the book in the Bodleian Library, Oxford, and in the University Library, Cambridge. There is no copy in the British Museum, none in the Advocates' Library, Edinburgh, and none—I have ascertained—in the library of any of the Scottish Universities, although Welwod was Professor of Civil Law at St. Andrews. Mr. Fulton (*The Sovereignty of the Sea*, 352 n.) has come upon a MS. copy in the *State Papers, Dom.*, Jas. I, ccviii, No. xvi, entitled 'The Sea Law of Scotland, shortly gathered and plainly dressed for the ready use of all seafaring men. Dedicated to James VI. of Scotland by William Welwod. At Edinborough, A° 1590, by Robert Walgrave.' For the particulars that follow I am indebted to Mr. F. Madan, Bodleian Library, Oxford. The title of the work as published is: THE SEA-LAW | of Scotland | Shortly gathered | and plainly dressit for | the reddy use of all sea- | fairing men. | PSAL. 107. ve. 23. 24. 31. | They that go down to the Sea in schips, | and occupie by the great waters. | They see the workes of the Lorde, and | his wonders in the deepe, &c. | Let them therefore confesse before the | Lord his loving kindnes, and his wonder- | ful workes before the sonnes of men. | AT EDINBURGH | IMPRINTED BY | ROBERT Waldegrave | An. Dom. 1590. [In an ornamental border $4\frac{3}{4} \times 2\frac{7}{10}$.] The size is small 8vo. The author's name is given at the end of the dedicatory epistle, which ends: Be your

is an allusion, at once modest and critical, in his better-known book, *An Abridgement of all Sea-Lawes*, which was first published in 1613,¹ and again, with slight variations in spelling, in 1636:² 'I thought good, after the insight and deepe consideration of all the lawes and ordinances aforesaid' (touching 'every sort of sea-faring persons in every order'), 'to mend a weake piece of labour, which I intended many yeares since, intituled the *Sea law of Scotland*; and to frame the same in a very harmonickall collection of all sea-lawes.'³

The *Abridgement*, as a work, befitting its title, both comprehensive and concise, treats of many matters that have no direct bearing on the Sovereignty of the Sea. It treats, for example, of the Clerk of the Admirall Court, who 'should have divers Registers, as for congees, saveconducts, pasports, sea-briefes; as without which no shippe should passe to the sea in time of warre, nor yet to farre voyages in time of peace... To conclude, no other Clerk or Writer, may meddle or pen things concerning the sea-faring, without licence of the Admirall.'⁴ The book treats of the manner of proceeding in sea-faring causes.⁵ It treats of the Master of the ship, to whom 'the whole power M. maist humble subject | M. William Welvod. The number of pages is 40, but there is no printed pagination. Sig. A. 4 leaves, the first blank; B. 8 leaves; C. 8 leaves (the last two probably blank: they are wanting in the Bodleian copy).

¹ 8vo, pp. viii+77.

² 12mo, pp. xiv+253.

³ *Abridgement* (ed. 1636), pp. 18-19. The full title is 'An Abridgement of all Sea-Lawes. Gathered forth of all Writings and Monuments, which are to be found among any people or Nation, upon the coasts of the great Ocean and Mediterranean Sea. And specially ordered and disposed for the use and benefit of all benevolent Sea-farers, within his Majesties Dominions of Great Brittain, Ireland, and the adjacent Isles thereof.' The *Abridgement* was printed at London.

⁴ *Abridgement*, Tit. iii, 'Of the Admirall Clerk', pp. 45-6, 48. For the Admiralty Court see *Law and Custom of the Sea*, i, pp. xiv sqq.

⁵ Tit. v, pp. 52-63.

and charge of the ship is committed : which power is prescribed, partly by the owner or outreader, and partly by the common law of the sea'.¹ It treats of 'the Outreaders, or Outriggers, Furnishers, Hyrers, and of the Owners of Ships, and of actions for and against them',² and of 'sundry Partners of Ships, and their discords'.³ It treats of shipwreck,⁴ and of 'things found upon the Sea, or within the floud-marke'.⁵ In its concluding chapter⁶ it treats of shipwrights—'the forgers and framers of the instrumentall causes of all Sea-faring',⁷ who not only must furnish the materials good and sufficient, but also, 'if the furniture pertain not to them, they must refuse to take from their furnishers bad and unmeet geare and stufte for the worke. As for example, Aller, Beech trees, and such like brickle and naughty timber for salt-water, or for the seas ;'⁸ and 'last of all, as Shippewrights were of old, so are they also of late, forbidden, under paine of treason, to communicate their skill and Art to enemies and barbarous people. Likewise, they are forbidden (as are also other societies of handy-crafts-men and trades-men) to conspire among themselves to enhance their wages, or hire, or receive excessive wages'.⁹ They are the author's closing words.

Of the thirty chapters of this book of Welwod only one bears directly on the Sovereignty of the Sea. But the chapter¹⁰ is by much the most substantial and the most distinguished of the book. It gives clear evidence that the author was deeply absorbed in 1613 or earlier in considering a question which, two years later, was to call forth from his pen a work exclusively devoted to the subject. The title of the chapter is 'Of the Community and Propriety of the Seas'. The opening words

¹ p. 83.² Tit. xv, pp. 124-9.³ Tit. xvi, pp. 130-5.⁴ Tit. xxiii, pp. 161-7.⁵ Tit. xxiv, pp. 168-74.⁶ Tit. xxx, pp. 248-53.⁷ p. 248.⁸ p. 250.⁹ pp. 252-3.¹⁰ Tit. xxvii, pp. 199-236.

testify to the influence of the book published by Grotius anonymously in 1609. The author had 'of late seene and perused a very learned, but a subtle Treatise (*incerto authore*¹) intituled *Mare liberum*, containing in effect a plaine Proclamation of a liberty common for all of all Nations, to fish indifferently on all kinde of Seas, and consequently, a turning of undoubted proprieties to a community'. The discourse of the unknown author was 'covered with the maintenance of a liberty to saile to the Indians'. At the very outset, says Welwod, 'I cannot passe the Authour his ridiculous pretence . . . as for a liberty onely to saile on Seas : a thing farre off from all controversie, at least upon the Ocean ; specially, since passage upon land through all Regions Christian, is this day so indifferently permitted to all of all Nations, even to Turkes, Iewes, Pagans, not being professed enemies ; and therefore much lesse to be restrained on Sea in all respects. So that I cannot but perswade both my selfe, and other loyall subjects, that the said pretence is but a very pretence, and so much the more to be suspected as a drift against our undoubted right and propriety of fishing on this side the Seas.'²

Appeal is made, as by Grotius it had been made in liberal array of learning, to the testimony of the Scriptures and of the Roman jurisconsults, and to that of others. There was considerable stretching of the texts. The central argument of Grotius was that there could be no 'occupation' of the sea.³ How does Welwod deal with that argument? 'For

¹ Grotius's name was given in the edition of 1616. Both the edition of 1608 and that of 1616 were published at Leyden.

² *Abridgement*, pp. 199-200 ; 201-3.

³ See, e.g. c. v. of *Mare Liberum*. 'Things that cannot be occupied, or that never have been occupied, cannot be the property of any one, because all property has its origin in occupation. Further, all things that have been so constituted by nature that, although of use to some one person, they suffice, notwithstanding, for the common use of all other persons, are

answer, first', he says, 'concerning the nature of the sea, as supposed impossibly occupable or acquirable; Is this so thought because the sea is not so solid, as is the land, that men may trade thereon, as upon land? or that it is continually flowing to and fro? Surely, that lacke of solidity for man his trading thereon by foot, shall not hinder the solid possession of it, farre lesse the occupation and acquiring, if we will give to the sea, that which the Iurisconsults indulgently grant to the land, which also cannot be denied.'¹ He quotes Paulus to the effect that it is not necessary for him who would 'possesse himself in any part of the land, to goe about and tread over the same; but it is sufficient to enter-in upon any thereof, with a mind to possesse all the rest thereof, even to the due marches'. 'And what', he asks, 'can stay this to be done on sea, as well as on land? And thus farre concerning the solidity.'²

'As for the flowing condition of the sea,' admit that it be liquid, fluid, unstable in the particles thereof, yet in the whole body it is not so, for does it not keep the prescribed bounds strictly enough concerning its chief place and limits? And here it is fitting to answer 'a scoffe cast in by the Author of *Mare liberum*, concerning the possibility also of marches and limits for the division of the seas: *Mundum dividunt* (saith the foresaid Authour of *Mare liberum*) *non ullis limitibus, aut natura, aut manu positis, sed imaginaria quadam linea: quod si recipitur, et Geometrae terras, et Astronomi caelum nobis eripient*³: that is, they divide the world, not by any marches,

to-day and ought for all time to remain in the same condition as when they were first brought forth by nature.' 'Flumen populus occupare potuit, ut inclusum finibus suis, mare non potuit.'

¹ pp. 218-19.

² pp. 219-20.

³ Grotius's words, ch. v, in the concluding clause, according to the text of 1633, are: 'quod si recipitur et dimensio talis ad possidendum valet, iamdudum nobis Geometrae terras, Astronomi etiam caelum eriperent'. See *The Freedom of the Seas* by Grotius, translated by Magoffin (New York, 1916), p. 39.

put either by nature, or by the hand of man, but by an imaginary or fantastick line: which kinde of doing being embraced, the Geometers may steale away the earth, and the Astronomers the heavens from us.'

True it is that there are not in every part of the sea isles 'sensible (as *Gernsey* is to England in the narrow seas) or sands (as the *Washes* at the West seas of *England*) nor rockes, or other eminent and visible markes above water, for the designation of the bounds (or laying-out the limits) of the divisible parts thereof', but has not God, who is both the distributer and first author of the division and distinction of both land and sea, 'diversly informed men by the helpes of the Compasse; counting of courses, sounding, and other waies, to finde forth, and to designe *finitum in infinito*; so farre as is expedient for the certaine reach and bounds of seas, properly pertaining to any Prince or people?'

'Which bounds *Bartolus* hardily extends and allowes for Princes and people at the sea side, an hundreth miles of sea forth from their coasts, at least; and justly, if they exercise a protection and conservacy so far: and this reach is called by the Doctors, *Districtus maris*, & *territorium*. It is true, *Baldus* esteemeth *potestatem, iurisdictionem* & *districtum*, to be all one.

'To conclude then, since Papinian writes in *finalibus quaestionibus vetera monumenta sequenda esse*; what more evident monuments for our King his right in the narrow seas, then these Isles of *Gernsie*? &c. And for the Eastern seas, direct from *Scotland*, what is more antiently notorious than that covenant twixt Scottish men and Hollanders, concerning the length of their approaching toward *Scotland* by way of fishing?'¹

¹ Pp. 220-5. See, further, on fishing rights, pp. 233-5, and Welwod's *De Dominio Maris* (1615), cap. iii; also Justice, *A General Treatise of the Dominion and Laws of the Sea* (1705), p. 167, quoting 'Mr. Welwood, an ingenious Lawyer of that Nation'.

A passage follows that the student of *persona*, and of 'semi-personality and demi-semi-personality',¹ will detach and appropriate on its own account :

'It rests to touch the other cause naturall, for that other impossibility, which may be the continuall fluxe and instability of the Sea ; in such sort, that it would appear not aye to be one and the selfe same body, but daily changeable. For answer, I must remember that which the Iurisconsult sets down so prettily : Suppose (sayes he) a certain Colledge of Iudges, or a Legion of Souldiers, or the particular parts of a Ship, or of a mans body, should so continually and often be changed and altred, that none of that first Colledge or Legion could be found alive, nor yet any part of the Shippe or body could be so certainly demonstrate, that it might be affirmed for the very same that it was at the first ; yet if that Colledge or Legion be in number full, and the ship or man whole and able in all the frame, they shall be accounted and esteemed not to be new, but to be the very same which they were at the beginning : even so, however the sea many waies and hourly changes, in the small parts thereof, by the ordinary rush on land, mixture with other waters, swelling in it selfe, exhalation and backe receipts thereof by raine ; yet since the great body of the Sea most constantly keepes the set place prescribed by the Creator, I see not in this respect neither, wherefore the nature of the Sea should not yeeld to occupation and conquest. And thus farre concerning *Mare liberum* his last and great conclusion, against all appropriation thereof by people or princes.'²

To Welwod belongs the twofold distinction of having written the first book printed in Britain on Sea Law,³ and of

¹ Maitland, on 'Moral and Legal Personality', in the *Journal of the Society of Comparative Legislation*, vi. (1906), p. 200.

² *Abridgement*, pp. 226-8. See Selden, *Mare Clausum*, lib. 1, cap. xxi 'Respondetur Obiectioni de Natura Maris fluxili et perpetuo mutante'.

³ The work of 1590. The claim is exclusive of mere translations of works into English. There is extant a very early English translation of an old version of the Rolls of Oleron, entitled 'The Rutter of the Sea', printed

being the author of the first attack in book-form on the *Mare Liberum* of Grotius. His place in the history of the controversy has been unduly dwarfed by the much more elaborate, learned and solid, and unquestionably eminent, work of Selden. The rank of his contribution in 1613 to the literature of the subject has been still further depressed by its appearing merely as a chapter, even although it was the most substantial and most distinguished chapter, in a highly composite book on Sea Laws.¹ But Grotius himself was so far impressed with the

in London in 1536. The book is very rare. See Travers Twiss, *The Black Book of the Admiralty*, i. (1871), p. lxxii. There was an earlier translation by Robert Copland (London, 1528). *Ibid.*; see also i, p. lxiv and p. 89.

¹ Alexander Justice, a very industrious compiler, notes, as a defect in Welwod's book in relation to its title, that it 'contains only a few general Maxims and Customs of different Nations, with so little Method, that it is a very hard matter to distinguish when he speaks of one Nation and when of another', p. 196 of *A General Treatise of the Dominion and Laws of the Sea containing, What is most Valuable upon that Subject, in Ancient and Modern Authors, &c.* London, 1705: a work of 660 pages (exclusive of 'An Additional Discourse of the Law of Insurances, and Bottomry', 40 pp.), each page containing about six times as many words as a page of Welwod's *Abridgement* (253 pp.). Justice, in alluding, p. 196, to the *Abridgement*, says 'there has lately appear'd an Abridgment of that in a small *Octavo*, in four sheets and a half, which the Publisher is pleased to intitle, *An Abstract of the Sea-Laws, as establish'd in most Kingdoms of Europe: but more particularly in England and Scotland*'. In spite of his not too complimentary allusion to Welwod's 'little Book', Justice was of opinion that the author in chapter xxvii 'very plainly and very judiciously confutes the Arguments which the ingenious *Hugo Grotius* proposes in his Book . . .; and to him an excellent Author Mr. *Selden* freely insinuates himself to have been oblig'd for some of the Arguments which he has made use of in his Answer to the aforesaid Book'. Much in Justice's book is merely a reproduction of parts of Selden's *Mare Clausum*. On the literary origins of his work see Twiss, *Black Book of the Admiralty*, iv. pp. lv-viii, and lxiv-xv. Sir Travers Twiss says the book is 'very rare'. For an allusion to Welwod, see *Black Book*, iv. lix.

force of Welwod's attack as to prepare a defence,¹ in which he deals more particularly with the question of fishery rights, which was also Welwod's particular concern, and denies, in a more absolute sense than in his earlier work or in his later, a title to sovereignty or property in any part whatsoever of the sea. The *Defensio* was not published, probably because it was thought to be unwise to add to the resentment felt by James I at any questioning of his rights.² A sympathetic appraiser of Grotius has recently described it as 'a rather disappointing and unconvincing answer'³ to Welwod.

In 1615, two years after the publication of the *Abridgement*, Welwod published a Latin work on the Sovereignty of the Sea.⁴ This work, *De Dominio Maris*, consisting of about seven thousand words, is described by him as being brief⁵ and methodical. It is certainly well planned, and not too narrowly, for its immediate object—that of opposing the freedom wrongfully usurped by foreigners of fishing in the British

¹ *Defensio Capituli Quinti Maris Liberi Oppugnati a Gulielmo Welwodo Iuris Civilis Professore, Capite XXVII eius Libri Scripti Anglica Sermone cui Titulum Fecit Compendium Legum Maritimarum*. The manuscript was discovered at the same time as the *De Iure Praedae*, and published in 1872. See Magoffin, *The Freedom of the Seas* (1916), p. ix (Introductory Note by James Brown Scott); Vreeland, *Hugo Grotius* (1917), pp. 56-7; and Fulton (1911), pp. 356-7.

² Fulton, pp. 152-3 and 346-7, and references in foot-notes.

³ Vreeland, p. 57.

⁴ *De Dominio Maris, Iuribusque ad Dominium praecipue spectantibus Assertio brevis et methodica*. Cosmopoli, 16. Calend. Ianuar. 1615. 8vo, pp. vi + 28.

⁵ 'Lectori Aequiori. Mirabere fortè tantulum de re tanta compendium : sed hunc agendi modum, ut mihi ingenitum, sic tibi veritatiq; consultiorem putavi : Tibi quidem brevitate, sed perspicua : veritati vero simplicitate genuina, qua quum amicitur, tum & armatur & ornatur. Eam itaque ad eum modum tibi exhibeo, boni consule ac benè vale.'

Seas.¹ It expands and makes more systematic the treatment of 'propriety of the seas' in the twenty-seventh chapter of the *Abridgement*. The theses which Welwod sets out to sustain are expressed by him thus in the titles to the four chapters of his book: (1) *Dominia esse in Mari, eaque distincta*; (2) *Ius navigandi in Mari non esse omnimodo liberum*; (3) *Ius piscandi in Mari esse maxima parte appropriatum*; (4) *Mare esse vectigale*. Selden quoted from the third chapter the more pertinent² of the words of Welwod, as 'Iurisconsultus Scotus', about the quarrels between the Scots and the Dutch: strangers, Welwod had written in the Epistle Dedicatory of his *Abridgement* to the Lords Admirals, required to be 'stayed from scarring, scattring, and breaking the shoals of our fishes; namely, upon our coasts of Scotland'.

The two English writers of distinction in the controversies of the seventeenth century regarding 'the Sovereignty of the Sea' are Selden and, in less degree, Sir John Borroughs. The controversy touching the Sovereignty, Superiority or Dominion of the English or British Seas was much more than a writers' controversy. It raised substantial and highly practical interests, such as fishing rights and rights of taking tolls; in the fourteenth and fifteenth centuries and later³ the claim was intimately

¹ See the words of the dedication of the book to Anne, wife of James I: 'contra extraneos piscandi immunitatem in Mari Britannico iniuria usurpantes'. The Queen had in 1613 unsuccessfully tried to get a royal patent empowering her 'to graunt lycense and to compound with these strangers for an yearly revenue to be paid unto her Majestie for theis fishings'.—*State Papers, Dom.*, lxxvii. 79, quoted by Fulton, p. 161.

² 'Non possum praeterire . . . partimque batavorum (*Batavorum* in Selden) audacia sic (*sic* omitted by Selden) evanuerunt.'—*De Dominio Maris*, p. 16; *Mare Clausum*, lib. ii, c. xxxi. ('*De Regis Magnae Britanniae dominio in mari Scotico, Orientali maxime & Septentrionali*'), pp. 546-7 of ed. of 1636 (12 mo).

³ Complaints regarding piracy made part of the ground for the levy of

connected with the important duty of repressing piracy; and the ceremony of striking the flag and lowering the topsail,¹ which was intended as a symbol of acknowledgement of a sovereign power and jurisdiction, and is the mark by which the claim to dominion is best known to the general reader of English history, gave rise to critical passages in writings, in diplomacy and in the conduct of war. The controversy was also, however, a 'Battle of Books',² and, in spite of the fact that the future was in fact and result to be with Grotius in respect of the leading issues at stake, there can be no doubt that the honours of learning lay with Selden. But Selden's book—*Mare Clausum seu de Dominio Maris Libri Duo*—must not be viewed merely as an answer to Grotius. *Mare Liberum* is a short work when compared with *Mare Clausum*. The work of Grotius was written to sustain a definite case, although it must be conceded that its sweep was wide in principles, in citation of authorities, and in illustrations, for its purpose. The text of *Mare Liberum* contains about 14,000 words. The text of *Mare Clausum* contains about 90,000 words. The whole of the first book,³ consisting of twenty-six chapters, is given Ship-money by Charles I. Examples are found for 1633 in Strafford's *Letters and Dispatches* (1740), e.g. i. 106-7 (with Wentworth's statement of the King's rights in St. George's Channel). For the first writ of ship-money and the plea of piracy, see Rushworth's *Collections*, ii. 257, and for a general call to the dominion of the sea, ii. 297-8—Coventry, Lord Keeper of the Great Seal, in delivering his charge, June 17, 1635. The dominion of the sea is at the very heart of Ship-money Case, from the King's standpoint. See Rushworth, ii. 322; 545, 552 (the Attorney-General's citation of 'that Learned Book of Mr. Selden'), and extracts from the speeches in Ship-money Case given by Gardiner, *Constitutional Documents of the Puritan Revolution*.

¹ 'Vaile Bonnet in acknowledgement of this Superioritie.'—Boroughs, p. 62.

² The term is that of M. Nys.

³ 'Libro Primo, *Mare, ex Iure Naturae seu Gentium, omnium hominum*

up to an exposition of principles, the citation and examination of authorities,¹ and an exposition of the maritime practice of other peoples than the British, peoples Eastern and Western, and at all ages in the world's history down to the author's own day. The second book,² consisting of thirty-two chapters, states and enforces the case for Britain by an examination of facts, claims, and records from Roman times down to the time when Selden was called upon by Charles I to proceed with the completion of a work which he had already presented to James I in 1618.³ He is generous in his appreciation of the learning and distinction of Grotius,⁴ an author of vast erudition and wide

non esse Commune, sed *Dominii* privati seu Proprietatis capax, pariter ac *Tellurem*, esse demonstratur.'

¹ e.g. cap. xxiv: *Ad Obiectionem ex Iurisconsultis Veteribus depromptam Responsio*: and cap. xxvi: *Recentiorum Iurisconsultorum sententiis, qua adversantur, maxime Fernandi Vasquii & Hugonis Grotii, respondetur*.

² *Secundo, Serenissimum Magnae Britanniae Regem Maris circumflui, ut individuae atque perpetuae Imperii Britannici appendicis, Dominum esse, asseritur*.

³ Selden, *Vindiciae Maris Clausi*, in Selden's Works (1776), ii, p. 1425; Twiss, *Black Book of the Admiralty*, 1. xiii. One of the reasons assigned for the withholding of publication at that time is the apprehension of James, that there were passages in the work which might offend the King of Denmark from whom he was endeavouring to obtain a loan of money. This was the explanation given by Selden in 1652 when a Dutch lawyer, Graswinckel, a cousin of Grotius, taunted him with having written it to get release from prison. Graswinckel was selected by the States-General to prepare a reply to Selden's *Mare Clausum* which made a considerable impression on the Dutch. The reply was not published, the States apparently accepting the advice tendered, that the freedom of the sea must be protected with the sword, and not merely with the pen.—Vreeland, *Grotius*, p. 48, citing Fruin's *Verspreide Geschriften*, iii, p. 408. Graswinckel published in 1653 a work against Welwod.

⁴ In lib. I, c. ii, in alluding to the more recent writers who have opposed the dominion of the sea, Selden writes of Vasquius and Grotius as '*clarissimi quidem utriusque, sed eruditione et nitore ingenii impares*'. Of Grotius:

range of mind, whose great work, *De Iure Belli ac Pacis*, was published eight years after the first draft of *Mare Clausum* had been ready, and ten years before the publication of the completed work in 1635, with a dedication to Charles I. Selden's tribute is an honourable one, coming, as it does, from the author of one of the most learned works written by Englishmen, and coming from him at a critical point in a battle of books, of principles, and of the claims of rival peoples.

No exposition of *Mare Clausum* is necessary here. The book is not rare. It has been translated into English.¹ Its substance has been presented in convenient compass by more than one writer.²

The work of the other English writer of distinction on this subject in the reign of Charles I was finished in 1633—two years before Selden's book appeared; but it was not published till eighteen years later—in 1651, eight years after the author's death. The original version was in Latin;³ the book published

‘Batavus, Fiscalis olim advocatus Hollandiae, Zelandiae, & Westfrisiae, aliisque honoribus patriis meretissimo auctus, vir acuminis & omnigenae doctrinae praestantia incomparabilis.’ Again, in c. xxvi ‘Virum ingentis eruditionis, & rerum humanarum divinarumque scientissimum, Hugonem Grotium; cuius nomen passim in ore hominum arripitur ut naturali & perpetuae Maris communione mire patrocinantis.’ *Mare Clausum* has a number of quotations from Grotius's *De Iure Belli ac Pacis* as well as from *Mare Liberum*. Before 1635 the reputation of Grotius was high and far-reaching.

¹ By Marchamont Needham, 1652. On April 15, 1636, the King in Council required that ‘no person whatsoever, do, or shall import, publish, set to sale’ any copies of a ‘foreign edition, either in Latin or English’, that had been issued, ‘except only such as have, or shall be licensed by the Laws and Customs of this Realm’. Rushworth, ii, pp. 320, 321. This action was called for inasmuch as ‘some have caused the said book to be printed in some place beyond the seas’—in Holland, where three editions were published within a year of its first publication in England.

² See, especially, Fulton, pp. 369–74.

³ The title is *Dominium Maris Britannici assertum ex Archiviis Historiis*

is in English—‘The Sovereignty of the British Seas. Proved by Records, History, and the Municipall Lawes of this Kingdome. Written in the yeare 1633. By that Learned Knight, Sr John Boroughs, Keeper of the Records in the Tower of London.’¹ The work, we are told in the words addressed ‘To the Reader’, was written ‘at the request of a great Person’—Charles I, to whom the original work in Latin was dedicated, ‘who desir’d to understand the true State of the Question, concerning the Dominion of the British Seas, as well what Histories as our own Records would afford. And here ’tis done in a little roome; for the Author was able to speake fully, and briefly both at once. Some others have written of the same Subject; and if wee thought any spake more, or so much, in so short compasse, wee should forbear the publication of this. Wee are borne in an Island, and cannot goe out of it, without asking leave of the Sea and Winde; and not to know what Right we have to that Water which divides us from all the World, is something ill becoming such as can read, and may know for reading.’

Boroughs’s Latin work was written when the question of the dominion of the British Sea raised a critical problem of a constitutional character touching the royal prerogative in England, as well as a claim of an international character touching the rights of the Crown abroad. For the latter purpose, at least, its place was deservedly taken by the much

et Municipalibus Regni Legibus per D. Iohannem de Burgo, 1633. The original Latin copy is in the *Harleian MSS.*, 4314, Brit. Mus. See Fulton, p. 365, f.n., where reference is made to a ‘fine copy in English’, dated 1637, in the *State Papers, Dom.*, ccclxxvi. 68.

¹ London, Printed for Humphrey Moseley, and are to be sold at his Shop at the Princes Armes in St. Pauls Church yard. 1651. The book is 12mo, pp. (x+) 165—about seventy words to the page. It was reprinted in Gerard de Malynes’ *Consuetudo vel Lex Mercatoria, or the Antient Law Merchant* (1686: a work first published in 1622).

more substantial, more learned and more thorough work of Selden. The book, in its English version, contains only about eleven thousand words, being thus shorter than the *Mare Liberum* of Grotius, and only about one-eighth of the length of Selden's book.¹ It presents, however, a considerable amount of information in its small space. It gives evidence of considerable and careful research among records, as becomes the Keeper of the Records in the Tower of London. It is written in a clear and pleasing style. It has zeal for the well-being and greatness of England, and is jealous of her honour. When the book was published in 1651 the political setting in England had been profoundly disturbed, but the question of rights and of power at sea against the Dutch, in particular, was urgent and of the highest importance, transcending both in content and in reasoning the technical constructions and the legal and lawyerly lore to which the claim to the dominion of the narrow seas had to make appeal. The claim was not one to be pressed in all circumstances as though it were a right paramount. The instructions issued to Blake in January 1650 had contained the following words :

'And whereas the dominion of these seas hath anciently and time out of mind undoubtedly belonged to this nation, and that the ships of all other nations in acknowledgment of that dominion have used to take down their flags upon sight of the admiral of England, and not to bear it in his presence; you are, as much as in you lyeth, and as you find yourself and the fleet of strength and ability, to do your endeavours to preserve the dominion of the sea, and to cause the ships of all other nations to strike their flags, and not to bear them up in your presence, and to compel such as are refractory therein, by seizing their ships, and sending them in, to be punished according to the laws

¹ 'Be not startled to see so great a subject handled in so small a Volume. When you have read but a little of this little, you'll thinke the Authour was tender of your trouble but not of his own.'—'To the Reader.'

of the sea, unless they submit, and yield such obedience, and make such repair, as you shall approve of. But yet notwithstanding, albeit the said dominion of the sea be so ancient and indubitable, and concerneth the honour and reputation of this nation to uphold the same, we should not for all that, that you should in this expedition engage the fleet in any peril or hazard for that particular; so that if it should in this expedition happen, you should be opposed therein by such a considerable force, as the same might prove dangerous, then to forbear the pressing thereof, and take notice, who they were that did it not, that at some better opportunity they may be brought hereafter thereunto.¹

But the claim to the dominion of the sea was very far from being a spent one,² and Boroughs's little book deservedly ranks

¹ Thurloe, *State Papers*, i. 135.

² Two interesting pamphlets bearing on the foundations of the claim and on its vicissitudes in the reign of Charles II are reprinted in the *Harleian Miscellany*, vol. vii (1810)—*The Dutch Usurpation . . . and A Justification of the Present War against the United Netherlands, Wherein . . . the Dominion of the Sea [is] explained, and his Majesty's Rights thereunto asserted*. Both were printed first in 1672. For a valuable enunciation of modern principles touching the general question of the freedom of the sea and maritime rights, the historical student should read the judgement of Sir William Scott, Lord Stowell, in the case of *Le Louis*, December 15, 1817: Dodson, *Reports of Cases argued and determined in the High Court of Admiralty*, ii. (1828), pp. 210-64 (*Judgment*, pp. 236-64). Dodson, for the appellant in the case, said of 'the empire of the seas, in the modern acceptation of the term', that it does not imply any exclusive legal privileges, and that the only meaning that can justly be assigned to it is, that in time of war the nation possessing it has a perfect mastery over the fleets of the enemy, and can secure to itself all the important advantages arising from such superiority, but that in time of peace it confers no peculiar privilege. In the course of his argument he cited Vasquius, Welwod, and Vattel as authorities. On the subject of the dominion of the sea in the limited and technical sense which Selden, Boroughs, and others contended for in the seventeenth century, Lord Stowell touched to the extent of the following words: 'It is true, that wild claims . . . have been occasionally set up by nations, particularly those of Spain and Portugal, in the East

high in the history of the literature of the subject in England. We must not urge too strongly the canons of historical evidence against the assiduous attempt to buttress the claim by continuous illustration and estimate of rights of sovereignty over the British seas from the days of the Britons before the coming of the Romans,¹ down through the Roman occupation ² to the solicitude of Edgar ³ and Canute ⁴ and other kings for the defence of the seas, 'untill the conquest made by *William Duke of Normandie*, in whose reign, and for many discentes after him, the Soveraigntie of the said Seas was so far from being evicted that it was never so much as questioned by any Nation until the time of *Edward* the first, about the year 1299 and the six and twentieth of his raigne'.⁵ We must not look for

and West Indian Seas: but these are claims of a nature quite foreign to the present question, being claims not of a general right of visitation and search upon the high seas unappropriated, but extravagant claims to the appropriation of particular seas, founded upon some grants of a pretended authority, or upon some ancient exclusive usurpation. Upon a principle much more just in itself and more temperately applied, maritime States have claimed a right of visitation and inquiry within those parts of the ocean adjoining to their shores, which the common courtesy of nations has for their common convenience allowed to be considered as parts of their dominions for various domestic purposes, and particularly for fiscal or defensive regulations, more immediately affecting their rights and welfare. Such are our hovering laws, which within certain limited distances more or less moderately assigned, subject foreign vessels to such examination. This has nothing in common with a right of visitation and search upon the unappropriated parts of the ocean.' *Op. cit.*, pp. 245-6. See, further, pp. 253-4 for the principle, that a nation has a right to enforce its system of navigation only so far as it does not interfere with the rights of others. See also W. E. Hall and L. Oppenheim, cited above, p. 116.

¹ *The Sovereignty of the British Seas*, pp. 8-18.

² pp. 18-19: the Romans had 'made themselves possessorie Lords of the Island'.

³ pp. 20-2.

⁴ p. 23.

⁵ pp. 24-5.

exactitude on the tangled subject of the Laws of Oleron¹ and the sea-law of the Middle Ages. But, at least, the author is clear in his own mind regarding the content of the claim to the lordship of the 'seas environing England'.² The kings of England have successively had the 'Sovereigne guard of the Seas', and definite and substantial rights and powers have been attached to that sovereignty. They 'have imposed taxes and tributes upon all ships passing³ and fishing therein'. They 'have stopped, and opened the passage thereof, to strangers as they saw cause'. 'All wrecks and Royall fishes therein found are originally due and doe belong unto them.'⁴ The author treats concisely of the rights and incidents involved in

¹ *The Sovereignty of the British Seas*, pp. 48-50: 'the famous Lawes of Olleron (which after the Rhodian Lawes were antiquated and absolute) have now well near 500 yeares been received by all the Christian world for regulating Sea affaires, and deciding Maritime controversies.' For mediaeval sea laws, their origins, descent, and connexions, the English work of authority is Travers Twiss, *The Black Book of the Admiralty* (Rolls Series), 4 vols. (1871-6). In the Introduction to the second volume there is a sketch of the 'Growth of Modern Maritime Law'. A reading of this may with advantage be preceded by the reading of the Introduction to the third volume, treating especially of the Laws of Oleron and of the Consulate of the Sea. The author's object in the fourth volume was to bring together the oldest texts of all the more important collections of mediaeval sea laws, that 'have come into use since the Rhodian Laws have ceased to be the governing Sea Laws of the civilised world'. He draws attention to 'two simple circumstances' that have proved hard obstacles to inquirers into the authenticity of any body of mediaeval sea laws: '(1) that the text of the laws has been modernised from time to time to make them more intelligible to successive generations; (2) that additions have been made to the collective body of laws from time to time to increase the usefulness of the collection.' 'The Judgments of Oleron supply a striking instance of the process of enlargement, to which an ancient collection of laws may be subject in the course of time.' *Op. cit.*, iv, p. cxi.

² p. 54.

³ The word is printed 'passign', p. 56. There are many misprints in the book, especially in the extracts in French.

⁴ pp. 56-7.

this sovereignty—of the vail;¹ of tribute;² of licences to foreigners to fish;³ and of rules to the like effect enjoined by other States;⁴ of the King's opening and stopping the passage of his seas;⁵ and of wrecks and of 'royall fishes taken in our seas' as due by prerogative and sovereignty to the kings of England only or 'unto such unto whom by special charters they have granted the same'.⁶ He is contending, not for a technical claim merely, but for the practical interests of Englishmen against the pretensions and interests of the foreigner, and especially of the Dutch. 'Inestimable' are the 'riches and commodities of the British Seas.'⁷ Why not protect and conserve them for those to whom they should bring wealth and prosperity? In September not many years since 'upon the Coast of Devonshire neare *Minigall*' were not 500 ton of fish taken in one day?

'And about the same time three thousand pound worth of fish in one day were taken at *St. Ives* in Cornewall by small boates, and other poore provisions. Our five-men-boats, and cobbles adventuring in a calme to launch out amongst the Holland Busses not far from Robin-hoods Bay returned to *Whitby* full fraught with herrings, and reported that they saw some of those Busses take 10. 20. 24. lasts at a draught of herrings and returned into their owne Country with 40. 50. and 100. lasts of herrings in one Busse.'⁸ 'Our Fleete of

¹ pp. 62-4: 'all strangers even at this day Vaile Bonnet in acknowledge-ment of this Superioritie' in 'the Narrow Seas', p. 62.

² pp. 64-73.

³ pp. 73-82. See 'Report of the Admiralty to Charles I as to the employment of the Ship-money Fleet in wafting and securing Foreign Merchants passing through His Majesty's Seas, and in protecting Foreign Fishermen who accept the King's License'.—*State Papers, Dom.*, Charles I, vol. cccxiii, No. 24, February 5, 1635-1636. Fulton, Appendix i.

⁴ pp. 82-4.

⁵ pp. 84-9.

⁶ pp. 91-106.

⁷ p. 108: the heading of a section of the book.

⁸ pp. 112-14.

colliers not many yeares since returning from *Newcastle* laden with coales about the well, neare *Flanborough* head, and *Scarborough* met with such multitudes of Cod, Ling, and herring, that one amongst the rest with certaine ship-hookes, and other like Instruments drew up as much cod, and Ling in a little space of time, as were sold well neare for as much as her whole lading of coale. And many hundred of ships might have bin there laden in two daies and two nights.¹

This 'wonderful affluence, and abundance of fish swarming in our seas'² the Hollanders by their fishing have known how to turn to good account. Thereby they made increase. They have increased in shipping;³ in mariners;⁴ in trade;⁵ in

¹ *The Sovereignty of the British Seas*, pp. 114-15.

² p. 115.

³ pp. 117-23. For the herring season alone, 'they have 1600. Busses at the least, all of them fishing onely upon our coasts, from *Bouhonnese* in *Scotland* to the mouth of *Tbames*. And every one of these maketh work for three other shippes that attend her; the one to bring in salt from forraigne parts, another to carry the sayd salt, and cask to the busses, and to bring back their herrings, and the third to transport the sayd fish into forraigne countries. So that the totall number of ships and busses plying the herring Faire is 6400. whereby every busse, one with another, imployeth 40. men, Mariners and Fishers within her own hold, and the rest tenne men a peece, which amounteth to 112000. Fishers and Marriners. All which maintaine double, if not treble so many Tradesmen, women and children a land. Moreover they have 400. other vessels at least, that take Herring at *Tarmouth*, and there sell them for ready mony.' They have a total of 'at least 10000. saile, being more then are in *England*, *France*, *Spaine*, *Portugall*, *Italy*, *Denmarke*, *Poland*, *Sweden*, and *Russia*. And to this number they adde every day; although their country it selfe affords them neither materialls, or victuall, nor merchandize to bee accounted of towards their setting forth.'—pp. 119-22.

⁴ pp. 124-5.

⁵ pp. 125-9: e.g. 'From the Southern parts, as *France*, *Spaine*, and *Portugall* for our herrings they returne Oyles, Wines, *Praynes*, Honey, Woolles &c. with store of coine *in specie*.'—p. 126.

towns and forts ;¹ in power abroad ;² in public revenue ;³ in private wealth⁴ diffused throughout the whole community ; and in all manner of provisions⁵ ' as well for life, as in corne, Beefe, Muttons, Hides, and Cloathes, as for luxurie in wines silkes, and spices, and for defence as in pitch, tarr, Cordage, timber. All which they have not only in competent proportion for their use, but are likewise able from their severall Magazines to supply their neighbour countries.'

Why not, then, assert our rights and draw profit from our own resources ? And why not take lessons from the industrious,

¹ pp. 129-31 : ' *Amsterdam, Leyden, and Midleburgh* having bin lately twice enlarged' and their streets and buildings improved and 'so faire, and orderly set forth that for beauty, & strength they may compare with any other in the world, upon which they bestow infinite summes of money, all originally flowing from the bountie of the sea, from whence by their labour and industry they derive the beginning of all that wealth and greatnesse'. pp. 130-1.

² pp. 132-3 : Not only can they repel foreign invasions, 'as lately in the warre betweene them, and *Spaine*', but they 'have likewise stretched their power into the East, and West Indies in many places whereof they are Lords of the sea coasts, and have likewise fortified upon the maine, where the Kings, and people are at their devotion. And more then this all neighbour Princes in their differences by reason of this their power at Sea, are glad to have them of their partie. So that next to the English they are now become the most redoubted Nation at Sea of any other whatsoever.'

³ pp. 134-6 : 'Above thirtie yeares since, over and above the customes of other Merchandise excises, Licences, Wastage, and Lastage, there was payed to the State for custome of herring and other salt fish above 300000 pound in one yeare besides the tenth fish, and Caske payed for wastage, which cometh at the least to as much more among the Hollanders onely, whereunto the tenth of other Nations being added it amounteth to a far greater summe. Wee are likewise to know that great part of their fish is sold in other Countries for ready money for which they commonly export of the finest gold, and silver, and coming home recoyne it of a baser allay under their owne stampe, which is not a small meanes to augment their publique treasure.'

⁴ pp. 136-42.

⁵ pp. 142-3.

skilful, and well-organized Hollanders? ¹ Reflect that by erecting two hundred and fifty busses of 'reasonable strength and bignesse' employment would be made for 1,000 ships, and for at least 10,000 fishermen and mariners, 'and consequently for as many tradesmen, and labourers at land'. The herrings taken by the busses would afford his Majesty '200,000 l. yearly custome outward, and for commodities returned inward 30000 l. and above'. ²

'For conclusion seeing by that which hath formerly bin declared it evidently appeareth that the Kings of *England* by immemorable prescription, continuall usage, and possession, the acknowledgment of all our neighbour States and the municipall lawes of the Kingdome have ever held the Sovereigne Lordship of the Seas of *England*, and that unto his Majestie, by reason of his Soveraigntie the supreame command and Jurisdiction over the passage, and fishing in the same rightfully appertaineth, considering also the naturall scite of those our Seas that interpose themselves between the great *Northerne* commerce of that of the whole world, and that of the *East*, *West*, and *Southerne* Clymates, and withall the infinite commodities that by fishing in the same is daily made. It cannot be doubted but his Majesty by meanes of his owne excellent wisdome, and vertue, and by the Industry of his faithfull Subjects and people may easily without Injustice to any Prince or person whatsoever be made the greatest Monarch for Command and Wealth, and his people the most opulent and flourishing Nation of any other in the world. And this the rather, for that his Majesty is now absolute Commander of the Brittish Isle, and hath also enlarged his Dominions over a great part of the *Western* *Indies*; by meanes of which extent of Empire (crossing in a manner the whole Ocean) the trade, and persons of all Nations (moving from one part of the World to the other) must, of necessitie, first, or last, come within compasse of his power, and jurisdiction. ³

¹ *The Sovereignty of the British Seas*, pp. 147-56.

² pp. 146-7.

³ Compare Bacon, in his Essay 'Of the true greatness of Kingdoms and Estates': 'Surely, at this day, with us of Europe, the vantage of strength

‘ And therefore the Sovereignty of our Seas being the most precious Jewell of his Maiesties Crowne, and (next under God) the principall meanes of our Wealth and Safetie, all true English hearts and hands are bound by all possible meanes and diligence to preserve and maintaine the same, even with the uttermost hazzard of their lives, their goods, and fortunes.’¹

(which is one of the principal dowries of this kingdom of Great Britain) is great ; both because most of the kingdoms of Europe are not merely inland, but girt with the sea most part of their compass, and because the wealth of both Indies seems, in great part, but an accessory to the command of the seas.’

¹ pp. 160-5.

Treaties

‘ Tout le monde sçait ’, wrote l’Abbé de Mably, ‘ que les Traités sont les archives des Nations, qu’ils renferment les titres de tous les peuples, les engagements réciproques qui les lient, les loix qu’ils se sont imposées, les droits qu’ils ont acquis ou perdus. Il est, si je ne me trompe, peu de connoissances aussi importantes que celle-là pour des hommes d’Etat, & même pour de simples citoyens s’ils sçavent penser ; il en est peu cependant qui soient plus négligées.’¹

It was well said by the editor of a Collection of Treaties published in 1772 that to a statesman a Collection of Treaties is a code or body of Law, and to him is of the same use as is a Collection of the Statutes to the lawyer.² But their historical place and value must never be lost to sight. They are to be viewed as marking points in the movement of thought.³

The relation of a Treaty to ‘ the Law ’ may well give rise to doubt. On this thorny subject the conclusions of Madison,⁴ the American statesman and one of the three contributors to *The Federalist*, had the approval of Sir Travers Twiss.⁵ Treaties, said Madison, may be considered in several relations

¹ *Le Droit Public de l’Europe, fondé sur les Traités*, par M. l’Abbé de Mably, 1717 (2 vols.), 3rd ed. (3 vols.), 1764. Preface to vol. i.

² *A Collection of all the Treaties of Peace, Alliance, and Commerce, between Great Britain and other Powers, from the Revolution in 1688, to the Present Time.* 2 vols. (1772).

³ W. E. Hall, cited above, p. 113.

⁴ *Examination of the British Doctrine*, 1806, p. 39.

⁵ *The Law of Nations . . . in Time of Peace*, 2nd ed. (1884), pp. 164–5.

to the Law of Nations according to the several questions that are to be decided.

‘They may be considered as simply repeating or affirming the General Law: they may be considered as making exceptions to the General Law, which are to be a particular Law to the parties themselves: they may be considered as explanatory of the Law of Nations on points where its meaning is otherwise obscure or unsettled, in which case they are first a Law between the parties themselves, and next a sanction to the General Law, according to the reasonableness of the explanation, and the number and character of the parties to it: lastly, treaties may be regarded as forming a voluntary or positive Law of Nations. Whether the stipulations of a treaty are to be considered as an affirmance, or an exception or an explanation, may sometimes appear upon the face of the treaty; sometimes, being naked stipulations, their character must be determined by resorting to other evidences of the Law of Nations. In other words, the question concerning the Treaty must be decided by the Law, not the question concerning the Law by the Treaty.’

Collection of Treaties

There are many collections¹ of treaties, and of treaty-documents, both general and national. Only a few need be mentioned here.

(a) General:

Dumont, *Corps Universel Diplomatique*; ²

Koch et Schöll, *Histoire abrégée des Traités* from 1648 to 1815,³ with full text of some and a connecting narrative, and the revival and continuation of the work by le Comte de Garden;

¹ A considerable impetus to the study of treaties was given by Leibnitz towards the beginning of the eighteenth century. On the unfavouring eyes with which the Cabinets of Europe viewed the publication of their treaties in a collection, see Travers Twiss, *op. cit.*, pp. xxix-xxx.

² 8 vols., 1726-31.

³ 15 vols., 1815-17.

Martens (G. F. de), *Recueil des principaux traités de paix, d'alliance . . . depuis 1761 jusqu'à nos jours*¹ (1808), with continuations² by G. F. de Martens himself, his nephew C. de Martens, and others, down to our own day—a standard work ;

Das Staatsarchiv — Sammlung der officiellen Actenstücke zur Geschichte der Gegenwart ;³ *Archives diplomatiques — Recueil mensuel de droit international, de diplomatie et d'histoire* ;⁴ Albin, *Les Grands Traités politiques* since 1815.⁵

(b) *British :*

Rymer, *Foedera*,⁶ and *Syllabus* to the work by Sir T. D. Hardy, issued for the Record Commission ;⁷

C. Jenkinson (later, Earl of Liverpool), *A Collection of all the Treaties of Peace . . . between Great Britain and other Powers from 1648 to 1783* ;⁸

¹ 8 vols., 1791–1808.

² *Nouveau Recueil*, 16 vols., *Nouveau Recueil Général*, &c.

³ A periodical publication since 1861. It is the chief collection for European States as a whole, and is especially designed as a collection of diplomatic documents.

⁴ First and second series, 1861–1900 ; continued thereafter, four volumes being published yearly.

⁵ 1910. See also *The Great European Treaties of the Nineteenth Century*, 1918 (Clarendon Press).

⁶ *Archiva regia reserata, sive foedera . . . inter reges Angliae et alios quosvis ab ineunte saeculo XII^{mo}*. The work began with the reign of Henry I and came down to 1654. There were subsequent editions which need to be distinguished. Rymer's work was a Government publication, suggested by that of Leibnitz. He was Historiographer Royal from 1692 to 1714.

⁷ 2 vols., 1869–72 (vol. i, to 1377 ; vol. ii, 1377–1654).

⁸ 3 vols., 1785. This is the second edition of the work published in 2 vols. in 1772. In the Advertisement (pp. v–vi) to this earlier work it was said : ' A Collection of Treaties was published in the Year 1732 ; and is now very scarce. The Treaties contained in that Work are not only very irregularly arranged, but upon comparing them with the detached copies published by Authority, were found to be very inaccurately printed ; and some Treaties were wholly omitted.' The work of 1732 was in 4 vols.

Chalmers, *A Collection of Maritime Treaties of Great Britain and other Powers*; ¹

Hertslet, *A Complete Collection of the Treaties and Conventions at present subsisting between Great Britain & Foreign Powers; so far as they relate to Commerce & Navigation; to the Repression and Abolition of the Slave Trade; and to the Privileges & Interests of the Subjects of the High Contracting Parties. The Whole in English, & the Modern Treaties & most important Documents, also in the Foreign Languages in which they were signed.*²

*Treaty Series.*³

Originals of British Treaties are in the Public Record Office; also Treaty Papers and State Papers, Foreign. The British Museum Catalogues (MSS.) should also be consulted.

¹ 2 vols., 1790.

² By Lewis Hertslet, Esq., Librarian and Keeper of the Papers, Foreign Office. The work was published in 2 vols., 1820. It has been continued to date. The Treaties with Austria go back to the Treaty of Alliance signed at Töplitz, October 3, 1813; with Denmark, to the Treaty signed at Whitehall, February 13, 1660-1661; with France, to the Treaty of Utrecht, March 31-April 11, 1713; with Portugal, to the Treaty signed at London, January 29, 1642; with Spain, to the Treaty signed at Madrid, May 13-23, 1667; with Sweden, to the Treaty signed at Upsal, April 11, 1654; with Turkey, to the Capitulation and Articles of Peace of 1675; with the United States of America, to the Treaty of Peace signed at Ghent, December 24, 1814. For Treaties, Acts, and Declarations on the Slave Trade, and on trade with the Colonies, see especially vol. iii (1827).

³ First volume 1892, and a volume yearly thereafter.

Maps ; and their Historical Background

Maps are rarely on an adequate scale. The following are good Hand Atlases :

- (1) An Atlas volume to the *Cambridge Modern History*, with a historical introduction of about one hundred pages ;
- (2) Poole, *Historical Atlas of Modern Europe*, with concise articles ;
- (3) Droysen, *Allgemeiner historischer Handatlas*, with text.

Of very high value is *The Map of Europe by Treaty*¹ since 1814, by Edward Hertslet—a work to which many writers have been indebted.

The work consists of four volumes. Of these the first extends from the first Treaty of Peace of Paris, May 1814, to 1827 ; the second from 1828 to 1863 ; the third from 1863 to 1875 ; and the fourth from 1875 to 1891. There is a helpful Index, pp. 2,101–399.

The author's object was to bring together in a collected form the various documents that have given treaty sanction to the territorial changes made in Europe since 1814, and which, in thus defining the landmarks of Europe, 'constitute the Title-Deeds of the European Family'. The arrangement of the documents is chronological. Each treaty is preceded by a Table of Contents, and for each article there is a descriptive heading. Where the details are not of European interest,

¹ *The Map of Europe by Treaty, showing the various Political and Territorial Changes which have taken place since 1814.* With numerous Maps and Notes. By Edward Hertslet, C.B., Librarian and Keeper of the Papers, Foreign Office ; first volume, 1875. The Treaty of Ghent of 1814 is included.

only the purport of the clauses of treaties is given. English is the language used throughout.

‘That these Engagements’, says the author, ‘have been contracted, in many instances, with the avowed object of maintaining the Balance of Power, may be readily tested by referring to the Index under that heading.’¹

Many of these engagements have been preceded or followed by European Conferences, and descriptions are given in some detail of the deliberations of the most important of these. References are given to the volumes of the State Papers in which the Protocols are to be found. The work contains, further, Declarations of War ; Treaties for the European Guarantee of Independence and Neutrality of certain States ; Decrees annexing Territories, and Protests of the Possessors against Annexations.

Owing to the frequent references to the Vienna Congress Treaty of 1815 in such Protests, the Index gives a key to all such references in subsequent European Documents.

In an Appendix are given copies of Treaties, or extracts from Treaties, which were concluded before 1814,² but are alluded to in the body of the work as being still valid, and there is a reference to the volumes of the State Papers, in which will be found extracts from and references to other documents not themselves inserted in the body of the work in order of date.³

The Index gives exact reference to every name and to every subject mentioned in the several Treaties or other international documents contained in the work.

¹ Introduction, p. ix. There are twenty-six entries under this heading in the Index for 1814-75 ; see, further, ‘Peace of Europe’ entries.

² Since 1641.

³ See vol. iii, pp. 1977-2074. The pagination is continuous for the four volumes.

The maps are sufficient in themselves, owing to their number, their scope, and their clearness, to make the work one of great value. The three general maps of Europe, showing the boundaries as fixed by the Vienna Congress Treaty of 1815, as in 1875, and as in 1891, are found on p. 274 (the first volume), p. 1976 (the third volume), and p. 3204 (the fourth volume). In the fourth volume there is a valuable series of maps illustrating the effects of the treaty arrangements of 1878.

For the author it may be claimed that he has fulfilled his object. Owing to the completeness and the connected form in which he has presented the necessary documents both primary and supplementary, the inquirer is no longer called upon to consult several Collections of Treaties, some of them not easily accessible in any one country, or to refer to Blue Books laid before Parliament on the subjects in question, or to State Papers, or even to accounts, apart from estimates, of the events contained in Treatises on International Law or international questions.

Supplementary Reading

1. (a) Machiavelli,¹ *Il Principe*: the best edition is that by Burd, with an Introduction by Lord Acton and copious and scholarly notes by the editor;² the best English translation is that by N. H. Thomson.³

(b) N. H. Thomson, *Counsels and Reflections of Guicciardini*.⁴

(c) Dallington, *Aphorismes Civill and Militarie: Amplified with Authorities, and exemplified with Historie, out of the first Quarterne of Fr. Guicciardine*:⁵

‘The Argument is generall, wherein the publicke Minister may meet with his experience, the Souldier with his practise, the Scholler with his reading: and every of these in his owne Element, parallel both the Aphorisme, Example, and Authorities. The Method is not vulgar, for though bookes of Civill discourse be full of axiomes, Philosophers of proofes, and Historians of instances; yet shall ye hardly meete them all combined in one couplement. Out of their legions of Authorities I have drawne out these Maniples, because our Masters in the art of warre doe teach us, that these are more readie for use, upon all sodaine occasion of service. I have enter-laced them with variety of Language, to procure his better appetite for whom they were written. I was the more plentifull in Authorities, because, to read many and great volumes, few young men have the will, no Prince hath the leisure. It is true, many of them may serve to severall Aphorismes, so doth the workmans Last for severall men’s wearing, and yet neither the shooe is cut, or foote pinched: Nor are they so loose but that with Lipsius⁶ Soder you may

¹ See above, ‘Diplomacy and the Conduct of Foreign Policy’, pp. 22-5.

² 1891.

³ 2nd ed., 1897.

⁴ 1890: e.g. Nos. 6, 30, 41, 48, 76, 78, 109, 140, 147, 336, 345. See above, pp. 25-6.

⁵ 1613.

⁶ Justus Lipsius, 1547-1606, Professor at Leyden and Louvain, a

cymment them together, and make them con-center in the main proposition. . . . In the Examples I have bound my selfe to the truth of the history, but used my liberty for the phrase and manner of relation.’¹

Aphorisme XVI. of Lib. 3: ‘He that weareth his heart in his fore-head, and is of an owvert and transparent nature, through whose words, as through cristall ye may see into every corner of his thoughts: That man is fitter for a table of good fellowship, then a Councell table: For upon the Theater of publicke employment either in peace or war, the actors must of necessity weare vizards, and change them in every Scene. Because, the generall good and safety of a State, is the Center in which all their actions and counsailes, must meet: To which men cannot alwaies arrive by plaine pathes and beaten waies. Wherefore a Prince may pretend a desire of friendship with the weaker, when hee meanes, and must, contract it with the stronger. Hee may sometimes leave the common highway, and take downe an un used by path in the lesser of dangers, so hee be sure to recompence it in the greater of safetie.’²

Aphorisme XXII. of Lib. 5: ‘As in things we have, so in those we doe, each hath his proper tryall, to prove the excellencie thereof in his kinde: Gold by the test, the Diamant by his hardnesse, Pearle by his water: So, the best discoverers of mens minds are their actions: the best directer of actions is counsaile: and the best triall of counsailes, is Experience.’³

A reading of Thucydides and of Tacitus may be substituted for Machiavelli and Guicciardini. For an understanding of policy, of democracy (howsoever defined) and of empire, the pages of Thucydides are still unsurpassed.⁴

writer on Politics, author of *Politiical Monitions and Models concerning the Virtues and Vices of Princes*. The father of Grotius studied under Lipsius, who called him his ‘intimate friend and pupil’ Lipsius was also one of the admirers of the early genius of Hugo Grotius. ¹ ‘To the Reader.’

² p. 176 of 2nd ed. Quotations from Tacitus, Cicero, and others follow; and thereafter an example from History. ³ p. 318.

⁴ See, for example, i. 33, 40, 41 (the expedient and the just), 70 (contrast of the Athenian and the Spartan character), 75 (Athenian envoys at

2. An extensive anti-Machiavel¹ literature, due mainly to uncritical interpretation of *The Prince* and to ignorance regarding Machiavelli's other works, as well as to 'Machiavellian' practice.

3. (a) Merriman, *Life and Letters of Thomas Cromwell*,² e. g. Letters 218 and 222.

(b) Clarendon, *History of the Rebellion*, Book XIV; and Gardiner, *History of the Commonwealth and Protectorate*, vol. ii,³ on Oliver Cromwell's foreign policy in 1654.

4. (a) Gentilis, *De Legationibus* : ⁴

'Legalem itaque, ethicum et politicum—at e Peripato—philosophum, Legatum volo; at etiam sobrie. Volo non ex umbra eum scholarum deduci, sed educatum in consiliis

Sparta: 'The development of our power was at first forced upon us by circumstances: our first motive was fear; later, ambition was added, and then interest', 76-7, 93 (sea-power); ii. 8, 36 (Funeral Oration of Pericles), 64 ('Your empire is at stake: it is too late to relinquish it, for you are already hated'); iii. 37 (Cleon's speech on the Mitylenaeen rebels: I have said more than once that a democracy cannot conduct an empire), 38 ('You are always hankering after an ideal state: you do not give your minds to what is straight before you'), 40 ('Do not be misled by the charm of words or by a too forgiving disposition'), 44, 46 (administration and its salutary effects), 47 (the higher expediency in the conduct of great affairs), 82 (the sway of imperious necessities), 83 (the revolutionary character of the year 427 B.C.); v. 89 (justice and necessity), 92-112 (the Athenians and the Melians: dominion and dependence; interests and security: 'To uphold our rights in relation to our equals, to be politic with superiors, and to be moderate towards inferiors—that is the path of safety'); vi. 11-13 (Nicias and the proposed Sicilian expedition: Conserve and develop your own resources: contain your ambition: the Sicilians have their own country: let them manage their own affairs), 18 (Alcibiades: Inactivity spells our ruin: 'You cannot afford to regard inaction in the same light as others, unless you put a corresponding limit to your policy'), 39 (Athenagoras on a true democracy), 84, 85 (expediency and empire), 87.

¹ See above, pp. 76-7, foot-note.

² 2 vols., 1902.

³ 1897; especially chapters xxxiii and xxxiv.

⁴ 1585.

rerum, atque in imperiorum administratione versatum. . . .
 Fori aliud ius est, aliud regni.' ¹

(b) *De Abusu Mendacii*, dedicated to a Bishop. We may compare with it *De Iure Belli ac Pacis*, ii. 5, 'de mendaciis':
 'Respondeo autem contingere varie posse, ut quis mendacio
 utatur adversus hostes.'

5. (a) *Le Parfait Ambassadeur*, traduit de l'Espagnol en
 François, par Le Sieur Lancelot.² The work is in the form of
 a dialogue where 'Jule' is of the Mazarin type:

'Definition de la charge d'Ambassadeur; ³ Qui fut l'auteur
 de la premiere Ambassade; ⁴ On ne peut estre bon Ambassa-
 deur, sans estre bon Orateur; ⁵ Pourquoi Aaron fut Colleague
 de Moyse vers Pharaon; ⁶ Comment un Ambassadeur doit
 proceder entre l'utile & l'honneste; ⁷ Si l'Ambassadeur se
 peut servir de l'entremise des femmes pour le progrez de ses
 affaires; Les femmes sont ordinaiemens les premieres adverties
 des secrets; Exemples de plusieurs grands secrets revelez par
 les femmes; Doute, si les femmes peuvent estre Ambassa-
 dices; Dames employées en Ambassades; ⁸ De la menterie
 officieuse; Si l'Ambassadeur peut uzer de menterie au Prince
 Estranger; Instructions sur ce point; ⁹ Exemple d'une
 subtile dexterité de certains Ambassadeurs de Florence;
 Ruse & contre-ruse; ¹⁰ Pourquoi il faut qu'un Ambassadeur
 soit riche; Inconveniens de la pauvreté & de l'excessive
 richesse; ¹¹ Les Ambassadeurs Venissiens ne peuvent recevoir
 aucuns presens; ¹² Comme les Ambassadeurs se doivent gou-

¹ III. x.

² 12mo, pp. (vi +) 602 (+ 12 pages of a summary of contents), published
 at Paris, 1642. The original work, *El Ambaxador*, by Antonio de Vera
 (Spanish Minister at Venice), was published in 1621. For extracts see
 Appendix, pp. 216 *sqq.*; also p. 17, above. ³ pp. 32-3, 36.

⁴ pp. 53-4.

⁵ pp. 177-8; see p. 17, above.

⁶ p. 183; see p. 17, above.

⁷ pp. 218-29.

⁸ pp. 282-7.

⁹ pp. 297-315.

¹⁰ pp. 315-17.

¹¹ pp. 353, 355.

¹² p. 359: 'Entre plusieurs merveilleuses ordonnances de la Republique
 de Venise, il y en a une qui deffend expressement à leurs Ambassadeurs de
 recevoir aucun present du Prince où ils resident.'

verner pour acquerir des intelligences par presens ;¹ Qu'un Ambassadeur doit estre sobre, & sabstenir des mets exquis ; Qu'il se devoit abstenir de boire du vin aux banquets ;² En quels cas un Ambassadeur peut témoigner sa hardiesse & son courage ;³ Que l'usage du chiffre est fort necessaire à l'Ambassadeur ; Accidents advenus faute de se servir des chiffres ; Les instructions des Ambassadeurs doivent estre écrites en chiffres ; Raisons au contraire ;⁴ Le secret est fort recommandable à l'Ambassadeur entre toutes autres qualitez.⁵

'Indice des plus belles Harangues, dispersees en tous les Historiens, tans anciens que modernes, apropiées aux plus importantes matieres de l'Ambassade.'⁶

(b) Wicquefort,⁷ *L'Ambassadeur et ses Fonctions*,⁸ which was

¹ p. 363.

² pp. 388, 389 : 'Secrets découverts à cause du vin' ; p. 391.

³ pp. 393-4.

⁴ pp. 467-73.

⁵ pp. 572-3, 574. 'Raisons au contraire de la precedante contre la louange des Venissiens à garder le secret', pp. 576-8.

⁶ pp. 585-602 ; e.g. 'Pour faciliter une entreprise difficile, soit militaire ou civile, & contester l'opinion contraire', pp. 596-7.

⁷ 1598-1682. Wicquefort was born at Amsterdam. He became minister resident of the Elector of Brandenburg at Paris, 1628. He continued in this office until 1658, when Cardinal Mazarin, having intercepted his correspondence of a character offensive to the Cardinal's government, ordered him to leave the kingdom, and, on his refusing, imprisoned him in the Bastille, whence he was sent under escort to Calais, and embarked for England. 'On his return to his native country, Wicquefort was appointed, on the recommendation of the Pensionary John de Witt, historiographer of the republic and secretary interpreter of despatches. Whilst in these employments, Wicquefort received a secret pension from Louis XIV, was named by the Duke of Luneburg his resident at the Hague, and being accused in 1675 of revealing the secrets of the state to foreigners, was tried and sentenced by the supreme court of Holland to imprisonment for life. He remained in prison until 1679, when he escaped through the address and filial devotion of his daughter, and retired to Zell in Hanover, where he died at the advanced age of eighty-five, in 1682.'—Wheaton, *History of the Law of Nations*, pp. 234-5.

⁸ 1679. 'One of the most remarkable works published during the seven-

translated into English by John Digby, under the title, *The Ambassador and his Functions, to which is added An Historical Discourse, concerning the Election of the Emperor, and the Electors.*¹

On the birth and learning of an Ambassador ;² Whether Clergymen are proper for Embassies ;³ Of Instructions ;⁴ Of the Function of the Ambassador in general ;⁵ Of Prudence

teenth century on the subject of the rights and duties of ambassadors. . . . The curiously chequered life of this intriguing adventurer might almost have furnished materials for his once celebrated treatise, which is rather of an historical than didactic character, and was written during his long imprisonment in Holland.—Wheaton, *op. cit.*, p. 235.

¹ Small folio [1716], pp. (viii+) 570, of which pp. 431–570 treat of ‘The Election of the Emperor’ ; there are, in addition, twenty-eight pages of Index. An ‘analyse raisonnée’ of the work is given in *Bibliothèque de l’Homme public*, by Condorcet (1790), tome douzième, pp. 6–104. ‘De tous les auteurs qui ont traité des ambassadeurs, aucun n’a rapporté tant de faits que Wicquefort. . . . Ces faits y sont mal distribués, et se sentent de la situation violente où étoit l’auteur ; mais on les y trouve. Il ne cite point ses garans ; mais la plupart des faits qu’il rapporte sont vrais. Pour les principes, il ne fait que les entrevoir.’—p. 6. See Appendix, below, pp. 217 *sqq.*

² Bk. I, ch. vii.

³ Bk. I, ch. ix.

⁴ Bk. I, ch. xiv.

⁵ Bk. II, ch. i. See also Bk. I, ch. xvi, pp. 116–21, ‘Of the Ambassador’s Powers’ (‘The Powers, with reference to an Ambassador, are nothing else, than what a Letter of Attorney is in reference to a private Person’, p. 116) ; ch. xviii, ‘Of the Reception and Entry of the Ambassador’, pp. 127–48 ; ch. xix, ‘Of Audiences’, pp. 148–64 ; ch. xx–xxii, ‘Of Honours and Civilities’, pp. 164–202 ; ‘Of the Apparel and Expences’, pp. 202–8 (‘The Ambassador Extraordinary cannot well avoid keeping an open Table, if he will do honour to his Master. . . . In the Courts of the North, where great Entertainments make part of the Negotiation, this Expence is very necessary, as well as in Holland, where they take great delight in reasoning between two Trestles. The Fenns of the Country produce a multitude of Frogs. The major Part of Ambassadors do not succeed therein, as well because every Body is not fit for it, as because it is contrary to the Dignity of the Character’) ; ch. xxiv, ‘Of the Competition between France and Spain’, pp. 208–20 ; ch. xxv, ‘Of Several Other Competitions’,

and Cunning;¹ Of Moderation;² Of Letters and Dispatches;³ Of Treaties.⁴

(c) Callières⁵, *De la Maniere de negocier avec les Souverains. De l'utilité des Negociations, du choix des Ambassadeurs & des Envoyez, & des qualitez necessaires pour réussir dans ces emplois* :⁶

Del'Utilité des Negociations;⁷ Des Qualitez et de la Conduite du Negociateur;⁸ Des connoissances necessaires et utiles à un Negociateur;⁹ Des Fonctions du Negociateur;¹⁰ Observations

pp. 220-35; ch. xxx, 'When the Ambassador's Function ceases', pp. 282-93.

¹ Bk. II, ch. vi.

² Bk. II, ch. viii.

³ Bk. II, ch. x.

⁴ Bk. II, ch. xii. The chapter is one of the best of the whole work. It is followed by chapters entitled, 'Of the Treaties of Munster and Osnaburg' [Osnabrück], ch. xiii; 'The most considerable Treaties relating to the Affairs of this Age', ch. xiv; 'Of Ratifications', ch. xv; 'Of the Report the Ambassador makes of his Negotiation', ch. xvi; 'Of some illustrious Ambassadors of our Time', ch. xvii.

⁵ Conseiller Ordinaire du Roi en ses Conseils, Secrétaire du Cabinet de Sa Majesté, ci-devant Ambassadeur Extraordinaire & Plenipotentiaire du feu Roi, pour les Traitez de Paix conclus à Ryswyck. Et l'un des Quarante de l'Académie Française.

⁶ 12mo, Amsterdam, 1716, pp. (xii+) 252; dedicated to the Duke of Orleans. See Appendix, below, pp. 219 *sqq.* A considerable part of the work has been quoted by Satow, *Diplomatic Practice* (1917), i. 119-27, 129-30, 132-3. There is an English transl., Lond., 1716, 12mo, pp. xvi + 239.

⁷ ch. ii.

⁸ ch. iii, and ch. iv, 'De quelques autres qualitez du Negociateur'.

⁹ ch. v.

¹⁰ ch. viii. Ch. vi is entitled 'Des Ambassadeurs, des Envoyez, et des Residents', and ch. vii, 'Des Legats, des Nonces, et des Internonces'. The succeeding chapters are: ch. ix, 'Des Privileges des Ministres Etrangers'; ch. x, 'Des Ceremonies et des Civilités qui se pratiquent entre les Ministres Etrangers'; ch. xi, 'Des Lettres de Créance, des Pleins Pouvoirs et des Passeports'; ch. xii, 'Des Instructions'; ch. xiii, 'Ce que doit faire un Ambassadeur ou un Envoyé, avant que de partir'; ch. xiv, 'Ce que doit faire un Negociateur à son Arrivée dans une Cour Etrangere'; ch. xv, 'Moyens de s'insinuer dans les bonnes grâces d'un Prince et de ses Ministres'.

sur les manières de négocier ;¹ Des Traitez et des Ratifications ;² Des Dépêches et de ce qu'il y faut observer ;³ Des Lettres en Chiffre ;⁴ Du Choix des Négociateurs ;⁵ Observations touchant le choix des Négociateurs ;⁶ S'il est utile d'envoyer plusieurs Négociateurs en un même Pays.⁷

(d) Martens (Charles de), *Le Guide Diplomatique*.⁸

The scope of this standard work is shown by the sub-title :⁹ '*Précis des Droits et des Fonctions des Agents Diplomatiques et Consulaires ; suivi d'un Traité des Actes et Offices divers qui sont du ressort de la Diplomatie, accompagné de Pièces et Documents proposés comme exemples, et d'une Bibliothèque diplomatique choisie.*'

Certain sections of the work are more especially of value for the study of international relations, and more particularly the following :

Considérations générales sur l'étude de la Diplomatie ;¹⁰ Du Ministère des Affaires Étrangères et de son Chef ;¹¹ Des Ministres publics et des Missions diplomatiques en général ;¹² De l'Envoi des Agents diplomatiques et de l'établissement de leur caractère public ;¹³ Des devoirs et des fonctions de l'Agent

¹ ch. xvi.

² ch. xviii.

³ ch. xix.

⁴ ch. xx.

⁵ ch. xxi.

⁶ ch. xxii.

⁷ ch. xxiii.

⁸ 1832 ; also, *Le Manuel diplomatique*, 1822. A fourth edition of *Le Guide Diplomatique* was published in 1851 ; a fifth, with notes by Geffcken, in 1856. See Appendix, below, pp. 220 *seq.*, for extracts.

⁹ See fourth edition by Wegmann, 2 vols., pp. xxvi + 512, and xii + 607. The third edition (3 vols., 1837) was unauthorized by Martens, and in a note to the Preface of the fourth edition he wrote : ' L'édition actuelle est désormais la seule que nous entendions reconnaître '.

¹⁰ i, pp. 1-28.

¹¹ i, pp. 29-37, with foot-notes which here, as throughout the work, are of value.

¹² i, pp. 38-53.

¹³ i, pp. 66-82, with sections ' des lettres de créance, des pleins-pouvoirs, des instructions, du chiffre ' (see foot-notes, pp. 77-9), and ' des passe-ports et des saufs-conduits '.

diplomatique; ¹ Observations générales sur le style diplomatique; ² De la langue employée dans les relations diplomatiques; ³ Actes Publics émanés d'un Gouvernement; ⁴ Pièces et Documents concernant l'établissement du caractère public de l'Agent diplomatique, ainsi que l'exercice et la cessation de ses fonctions; ⁵ Correspondance diplomatique; ⁶ Congrès et Conférences.⁷

(e) Satow (Sir Ernest), *A Guide to Diplomatic Practice*.⁸

The intention of the author 'was to produce a work which would be of service alike to the international lawyer, the diplomatist, and the student of history.'⁹ Accordingly, both the

¹ i, pp. 167-201.

² ii, pp. 1-5.

³ ii, pp. 6-9.

⁴ ii, pp. 31-195: manifestes et proclamations; déclarations ('en quelque sorte des mémoires dont le but est de réfuter des bruits mal fondés, de justifier des mesures déjà prises ou à prendre, ou bien d'instruire le public des démarches faites ou à faire', ii, p. 56); exposés de motifs de conduite; traités publics et conventions; de la signature des traités; des cartels; actes d'acceptation, d'accession ou d'adhésion; actes de ratification, de garantie, de cession et de renonciation, de prise de possession, d'abdication; réversales (ou lettres réversales: 'la pièce officielle par laquelle une cour reconnaît qu'une concession spéciale qui lui est faite par une autre cour ne devra préjudicier en rien aux droits et prérogatives antérieures de chacune d'elles. . . . Lorsque la réversale est signée par le chef de l'État elle reçoit la forme de *lettre patente*: lorsqu'elle est souscrite par des plénipotentiaires, elle est rédigée sous forme de *déclaration*', p. 193). See historical examples cited, e.g. *Déclaration du roi de Prusse sur sa rupture avec l'Angleterre* (1807), pp. 57-8.

⁵ ii, pp. 196-265. See especially on 'instructions', with historical examples (e.g. of Choiseul to Breteuil, 1766), pp. 245-65.

⁶ ii, pp. 266-524; especially, *Mémoires et Memorandum*; Notes diplomatiques; Lettres diplomatiques; Dépêches ou Rapports; with historical examples.

⁷ ii, pp. 525-43, especially *Protocoles*, pp. 525-35, with historical examples.

⁸ 2 vols., 1917, xii+407, and ix+405: one of a projected series of 'Contributions to International Law and Diplomacy', ed. by L. Oppenheim.

⁹ Editorial Introduction, i. v.

practical and the legal side of diplomacy have been kept in view; an outline of the important Congresses and Conferences is included, and the different kinds of international compacts have been treated in some detail. The manner of conducting Congresses and Conferences, and of framing treaties and like instruments, is in the majority of cases, analysed. With regard to Good Offices and Mediation the historical supports and illustrations given by the author are considerable and ample. The language of the originals is retained, in the larger part of the work, in quotations from treaties and other State Papers. An Appendix contains a list of treatises on International Law likely to be of use to diplomatists, and a supplementary list of works, historical, biographical, and other, that 'may be useful to junior members of the diplomatic service', and not to these only.

There are parts of this work that more especially deserve attention within our own purpose: the first few pages¹ on definitions and uses of the words 'diplomacy' and 'diplomat', 'diplomate', 'diplomatist'; a chapter² on 'The Minister for Foreign Affairs'; a chapter,³ historical in character, entitled 'Precedence among States and Similar Matters'; a chapter⁴ on 'The Language of Diplomatic Intercourse, and Forms of Documents', especially the sections on the former use of Latin, French, and Spanish, on the language used in treaties, and on the *Note*, the *note verbale*, and the *memorandum*; a chapter⁵ on 'Counsels to Diplomats', including the Minister for Foreign Affairs; ⁶

¹ i, pp. 1-4.

² i, ch. iii, pp. 8-12.

³ i, ch. iv, pp. 13-25.

⁴ i, ch. vii, pp. 58-99.

⁵ i, ch. ix, pp. 119-45.

⁶ 'We venture to suggest that a Minister for Foreign Affairs ought always to have a clear idea of the policy to be pursued in regard to each separate foreign state, and to seize every convenient opportunity of discussing it with the heads of the respective diplomatic missions. It is to be regretted that the earlier practice of providing an envoy proceeding to

a chapter¹ on 'Latin and French Phrases'—*ultimatum*, *uti possidetis* and *status quo*; ² *ad referendum* ³ and *sub spe rati*; *casus belli* and *casus foederis*; *démarche*; *prendre acte*; a short chapter ⁴ 'Of Diplomatic Agents in General'; a chapter ⁵ entitled 'Classification of Diplomatic Agents'; ⁶ one ⁷ on 'The Diplomatic Body'; two chapters,⁸ historical in character, on 'Congresses' and 'Conferences'; parts of five chapters ⁹ on 'Treaties and other International Compacts'—e. g. Treaty, Convention, Additional Articles, Acte Finale, Declaration, Protocol, Procès-verbal, Exchange of Notes,

his post for the first time with detailed instructions has in some countries fallen into disuse.'—i, p. 142. 'The moral qualities—prudence, foresight, intelligence, penetration, wisdom—of statesmen and nations have not kept pace with the development of the means of action at their disposal: armies, ships, guns, explosives, land transport, but, more than all, that of rapidity of communication by telegraph and telephone. These latter leave no time for reflection or consultation, and demand an immediate and often a hasty decision on matters of vital importance.'—i, p. 145.

¹ i, ch. x, pp. 146–67.

² These two phrases are often used to denote the same thing, but, 'while *uti possidetis* relates to the possession of territory, the *status quo* may be the previously existing situation in regard to other matters', i, p. 156. 'In stipulating for *uti possidetis* or for *statu quo*, it is . . . of the utmost importance to fix the date to which either expression is to relate', p. 157.

³ 'In these days, when telegraphic communication is possible between capitals even the most distant from each other, a prudent diplomatist will take care not to commit his Government by a provisional acceptance of what is not warranted by his previous instructions. The utmost he will do will be to receive the proposal *ad referendum*.'—i, pp. 158–9.

⁴ i, ch. xi, pp. 168–74.

⁵ i, ch. xvi, pp. 229–39.

⁶ 'Le mot ambaxador était apparu au milieu du xiii^e siècle', Nys, *Origines du droit international*, p. 317, quoted i. 230.

⁷ i, ch. xxiii, pp. 339–64.

⁸ ii, ch. xxv, pp. 1–93, and ch. xxvi, pp. 94–171.

⁹ ii, ch. xxvii–xxxi, pp. 172–288.

Modus vivendi, Ratification, Adhesion, and Accession ; a chapter¹ on 'Mediation'.²

6. (a) Frederick the Great, *L'Histoire de mon Temps*.

The interest of the State, said Frederick, ought to serve as the rule to sovereigns in their regard for treaties and alliances. Alliances may be broken : (1) when the ally fails to fulfil his engagements ; (2) when the ally is thinking of deceiving you, and there remains to you no resource except to anticipate him ; (3) when *une force majeure* overwhelms you, and constrains you to break your treaties ; and (4) when there is a lack of adequate means to continue war.

'Par je ne sais quelle fatalité ces malheureuses richesses influent sur tout. Les Princes sont des esclaves de leurs moyens ; l'intérêt de l'État leur sert de loi, & cette loi est inviolable. Si le Prince est dans l'obligation de sacrifier sa personne même au salut de ses sujets, à plus forte raison doit-il leur sacrifier des liaisons dont la continuation leur deviendrait préjudiciable. Les exemples de pareils traités rompus se rencontrent communément. Notre intention n'est pas de les justifier tous. J'ose pourtant avancer qu'il en est de tels, que la nécessité, ou la sagesse, la prudence, ou le bien des peuples obligeoit de transgresser, ne restant aux Souverains que ce moyen-là d'éviter leur ruine.'

The word of a private person (*un particulier*), Frederick says, may involve only one man in misfortune, whereas that of Sovereigns may bring calamities to whole nations. 'The question, therefore, is reduced to this, whether it is better

¹ II, ch. xxxiii, pp. 307-57.

² 'Good offices' (see II, pp. 289-306) are 'often confused with "mediation", and sometimes assume that form, while a mediation may now and then involve an arbitration. In fact, arbitration may be regarded essentially as an agreement to confer on a mediator, in place of a commission to negotiate terms of settlement, the more extended power of pronouncing a judgment on the matters at issue between the parties,' ii. 358.

that the people should perish, or that the Prince should break the treaty he has made. And what man would be so stupid as to hesitate in deciding the question ?' . . . ' If war could fix securely the frontiers of States, and maintain that balance of power which is so necessary for the Sovereigns of Europe, we might regard those who have fallen in war as sacrifices to the public tranquillity and safety.' Reason prescribes a rule from which no statesman should depart: he should seize occasion, and when it is favourable embark on his enterprise. ' La Politique demande de la patience, et le chef-d'œuvre d'un homme habile est de faire chaque chose en son temps et à propos.'¹

(b) Clausewitz (1780-1834), *On War*.²

Allies in relation to 'the extent of the means of defence':

'We may further reckon *allies* as the last support of the defensive. Naturally we do not mean ordinary allies, which the assailant may likewise have; we speak of those *essentially interested in maintaining* the integrity of the country. If for instance we look at the various states composing Europe at the present time, we find (without speaking of a systematically regulated balance of power and interests, as that does not exist, and is often with justice disputed, still, unquestionably) that the great and small states and interests of nations are interwoven with each other in a most diversified and changeable manner; each of these points of intersection forms a binding knot, for in it the direction of the one gives equilibrium to the direction of the other; by all these knots, therefore, evidently a more or less compact connection of the whole will

¹ *L'Histoire de mon Temps: Avant-Propos*. Applications of Frederick's precepts abound in his writings: see, e.g., the beginning of ch. iv of the *History*.

² Translated from the third German edition, by Colonel J. J. Graham, 3 vols. in one, 1873. For the connexion of Clausewitz with Scharnhorst and Stein, see Sceley's *Stein*.

be formed, and this general connection must be partially overturned by every change. In this manner the whole relations of all states to each other serve rather to preserve the stability of the whole than to produce changes; that is to say, *this tendency* to stability exists in general. This we conceive to be the true notion of a balance of power, and in this sense it will always of itself come into existence, whenever there are extensive connections between civilised states. How far this tendency of the general interests to the maintenance of the existing state of things is efficient is another question; at all events we can conceive some changes in the relations of single states to each other, which promote this efficiency of the whole, and others which obstruct it. . . . The defensive, in general, may count more on foreign aid than the offensive; he may reckon the more certainly on it in proportion as his existence is of importance to others, that is to say, the sounder and more vigorous his political and military condition.' ¹

Influence of the political object on the military :

'Even in wars carried on without allies, the political cause of a war has a great influence upon the method in which it is conducted. . . . The reciprocal action, the rivalry, the violence and impetuosity of war lose themselves in the stagnation of weak motives, and . . . both parties move with a certain kind of security in very circumscribed spheres. If this influence of the political object is once permitted, as it then must be, there is no longer any limit, and we must be prepared to come down to such warfare as consists in a *mere threatening of the enemy* and in *negotiating*. That the theory of war, if it is to be and continue a philosophical study, finds itself here in

¹ Clausewitz, *On War*, ii, pp. 81-3. Cf.: 'When a great state which has smaller allies is conquered, these usually secede very soon from their alliance, so that the victor, in this respect, with every blow becomes stronger; but if the conquered state is small, protectors must sooner present themselves when his very existence is threatened, and others, who have helped to place him in his present embarrassment, will turn round to prevent his complete downfall.' *Ibid.*, iii, p. 37.

a difficulty is clear. All that is essentially inherent in the conception of war seems to fly from it, and it is in danger of being left without any point of support. . . . All military art then turns itself into mere prudence.’¹

War as an instrument of policy :

‘ War is nothing but a continuation of political intercourse, with a mixture of other means. We say, mixed with other means, in order thereby to maintain at the same time that this political intercourse does not cease by the war itself, is not changed into something quite different, but that, in its essence, it continues to exist, whatever may be the form of the means which it uses, and that the chief lines on which the events of the war progress, and to which they are attached, are only the general features of policy which run all through the war until peace is made. . . . Is not war merely another kind of writing and language for political thoughts ? It has certainly a grammar of its own, but its logic is not peculiar to itself. . . . That the political point of view should end completely when war begins, is only conceivable in contests which are wars of life and death, from pure hatred. . . . The subordination of the political point of view to the military would be contrary to common sense, for policy has declared the war ; it is the intelligent faculty, war only the instrument, not the reverse. . . . The art of war in its highest point of view is policy, but, no doubt, a policy which fights battles, instead of writing notes. . . . It is only when policy promises itself a wrong effect from certain military means and measures, an effect opposed to their nature, that it can exercise a prejudicial effect on war by the course it prescribes. . . . This has happened times without end, and it shows that a certain knowledge of the nature of war is essential to the management of political commerce. . . . If war is to harmonise entirely with the political views and policy, to accommodate itself to the means available for war, there is only one alternative to be recommended when the statesman and soldier are not combined in one person, which is to make the chief commander a member of the cabinet, that he may take part in its councils

¹ *Ibid.*, iii, pp. 64-5.

and decisions on important occasions. But then, again, this is only possible when the cabinet, that is the government itself, is near the theatre of war, so that things can be settled without a serious waste of time.' ¹

7. Sorel, *L'Europe et la Révolution française*.²

In the first volume³ there are passages treating of *La Raison d'État*; *Les Règles de Conduite*; *La Foi des Traités*; *Le Système de l'Équilibre*; *La Diplomatie*; *Ruine de l'Europe*.

8. James Harris, first Earl of Malmesbury (1746–1820), *Diaries and Correspondence*.⁴

The work is an established and indispensable authority for an understanding of the diplomacy of the times of which it treats. It contains much that is of value bearing on internal politics both in Britain and in Continental States, and on the influence of the constitutional system and of domestic politics upon the conduct of foreign policy.⁵

Malmesbury gave advice to a young man 'destined for the foreign line'.⁶ His grandson had doubts whether the maxims then enunciated were wholly applicable a generation later.⁷

9. Bernard⁸ (Mountague), *Four Lectures on Subjects connected with Diplomacy*.⁹

¹ Clausewitz, iii, pp. 65–8.

² 6 vols., 1885–1903.

³ 2nd ed., 1907, ch. i, pp. 9–91.

⁴ Containing an account of his missions at the Court of Madrid, to Frederick the Great, Catherine the Second, and at the Hague; and of his special missions to Berlin, Brunswick, and the French Republic. Edited by his grandson, the third earl. 4 vols., 1844.

⁵ e.g. i. (2nd ed.), pp. 169 (Russia in 1778), 171 (Britain in 1778), and 208–9 (the absence of instructions in July 1779); cf. iii. 517.

⁶ iv, pp. 412–15. See Appendix, pp. 234–6.

⁷ iv, p. 417.

⁸ Chichele Professor of International Law and Diplomacy, Oxford.

⁹ 1868, viii + 205.

The subjects of these four very interesting lectures are : (1) The Congress of Westphalia ; (2) Systems of Policy ;¹ (3) Diplomacy, Past and Present (with much miscellaneous information) ; (4) The Obligation of Treaties.

10. Holland, *Studies in International Law*.²

The following are among the subjects discussed : Gentili ; Early Literature of the Law of War (to the second half of the sixteenth century) ; the Progress towards a written Law of War ; Pacific Blockade ; Treaty Relations between Russia and Turkey, 1774-1853, with Appendices,³ on which subject

¹ 'The word "System", in the language of politicians, sometimes stands for a system of States, and sometimes for a system of policy. In the first case it signifies a group of States having relations more or less permanent with one another. Thus the North of Europe was said before the time of Richelieu, and less positively afterwards, to form one "system", and the central, western, and southern States to constitute another system. So, again, all the European Powers are often spoken of as composing one great system. In the second case it means either any course of policy whatever—any tolerably uniform mode of acting in political affairs—or such a course of policy as involves combinations, more or less permanent, with foreign Powers. A statesman who habitually avoids engaging his country in foreign alliances has a consistent principle of action, but not a "system" in this latter sense of the word. His principle is to have no system. It is in this latter sense that the word is commonly used by older publicists,' pp. 61-2. It is the sense in which it is used by the author. Cf. : 'Whoever undertakes to write the history of any particular states-system (by which we mean the union of several contiguous states, resembling each other in their manners, religion, and degree of social improvement, and cemented together by a reciprocity of interests), ought, above all things, to possess a right conception of its general character.'—Heeren, *A Manual of the Political System of Europe*, transl. 1834, 1, pp. viii-ix : so, 'the rise of the European political system' ; 'the Southern European States-system' ; 'the Northern European States-system'.

² 1898.

³ (1) Treaties between Russia and Turkey, 1774-1853, and (2) showing the relation of the Treaty of Kainardji to the subsequent great treaties.

reference should be made to the same author's *The European Concert in the Eastern Question*¹ (Treaties and other Public Acts, with introductions and notes).

II. (a) Report from the Select Committee on the Diplomatic Service (with Proceedings of the Committee, Minutes of Evidence, &c.),² 1861.

This very valuable Report contains the evidence of Clarendon, Stratford de Redcliffe, Malmesbury, Cowley, Lord John Russell, Edmund Hammond (Permanent Under-Secretary of State for Foreign Affairs), and others. It is of high value on questions of training, procedure, the effect of telegraphic communication on the requirements and conditions of the service, the publication of dispatches. There is a helpful Index of fifty-four pages.

(b) Hammond, *Adventures of a Paper in the Foreign Office*, 1864, reprinted in Report of the Commission on the Diplomatic and Consular Services, 1871.³

Hertslet (Sir Edward), *Recollections of the Old Foreign Office*.⁴

(c) Parliamentary Paper, Miscellaneous, No. 5 (1912): Treatment of International Questions by Parliaments in European Countries, the United States, and Japan.⁵

(d) Fifth Report of the Royal Commission on the Civil Service: Diplomatic Corps and the Foreign Office.⁶

¹ 1885.

² pp. xx + 555.

³ Com. Papers, 1871, vi. 197.

⁴ 1901, pp. x + 275: ch. iv-v, 'Secretaries of State'; vi, 'Under Secretaries'; vii, 'Foreign Office Officials' (including Edmund Hammond and Lewis Hertslet. 'There have been four generations of the Hertslet family in the Foreign Office since 1795', p. 144, f.n.); viii, 'King's (Queen's) Messengers'; ch. xi, 'Diplomatists and Consuls'; Appendix, 'Secretaries of State' (historical and chronological).

⁵ Cd. 6102.

⁶ Cd. 7748 (1914).

The Statesman's Year-Book, recent and current, and *The Foreign Office List*,¹ begun in 1852, should be consulted.

¹ For a chronological list of Ambassadors, Envoys, Ministers, Chargés d'Affaires, &c., from Great Britain to Foreign States, from 1851 to 1918, see the edition for 1918; for lists from 1740 to 1813, see editions previous to 1862; from 1814 to 1836, editions previous to 1873; from 1837 to 1850, editions previous to 1902. For Secretaries of State for Foreign Affairs from 1782 to 1918, see edition for 1918; for Secretaries of State for the Northern and Southern Departments, from 1761 to 1782, see edition for 1901. For Under-Secretaries of State from 1854 to 1918, see edition for 1918; for before 1854, see edition for 1901.

Literature of Recent British Diplomacy

1. (a) Seeley, *The Growth of British Policy*.¹

The work is of great value for its way of appreciating questions of international 'policy' in general, for an interpretation of the international policy of Britain from the accession of Elizabeth to the early years of the eighteenth century, and for the skill with which the author shows the historical background of modern Britain in its relation to foreign States. The work was needed.

'In France, where for a long time constitutional development, if it existed, escaped notice, still more in Germany, where it was petty and uninteresting, history leaned towards foreign affairs. But in England, the home of constitutionalism, history leaned just as decidedly in the opposite direction. English eyes are always bent upon Parliament, English history always tends to shrink into mere parliamentary history, and as Parliament itself never shines less than in the discussion of foreign affairs, so there is scarcely a great English historian who does not sink somewhat below himself in the treatment of English foreign relations.'²

¹ 2 vols., 1895.

² Op. cit. i, pp. 1-2. Sir John Seeley commends the work of Gardiner and of Kinglake in remedying this defect of English historians 'since Ranke tried in his English History to supply those links between English and continental affairs' (especially, one may add, for the reign of Charles II) 'which English historians had not troubled themselves to give' (p. 2). He pays a striking tribute to Kinglake in this connexion: 'In his book England always appears as a Power. He sees her always in the company of other great states, walking by the side of France or Austria, supporting Turkey, withstanding Russia. Her Parliament is in the background; in

The work may seem, at points, to treat in too large outline international changes, such as, for example, were initiated by Richelieu,¹ and to ascribe too boldly to the English Revolution important changes effected;² and in particular it may seem to pursue too assiduously, though with more reserve than in *The Expansion of England*, the quest for tendency, for some large conclusion, the formula. But it is a work unsurpassed in Britain for its suggestiveness in the realm of international policy; for its gift of relating causes to effects, motives and principles to policy and action; of relating the domestic to the foreign, the insular to the international; for its grasp of inter-connexions and inter-dependences in the causes and consequences of great events. These qualities are exhibited in the author's treatment of the dangers to Elizabethan England from the Powers of the Counter-Reformation,³ and the winning by England of 'a self-confidence which it has never lost since'.⁴ 'If the Muse is asked to say what first caused the discord

the front of the stage he puts the Ministers who act in the name, or the generals who wield the force, of England, the Great Power.'

¹ i, pp. 357-65.

² ii, pp. 275-308, and the chapter on 'The Work of William III'. In a summary statement, ii, p. 344, the author says of 'The Second Revolution' that it 'was in the first place a rising against arbitrary power, but a rising undertaken in circumstances so peculiar that it necessarily involved (1) an immediate war with France, (2) a supplementary revolution of the same kind which we call the Hanoverian Succession, (3) another great war with France and Spain, (4) a union with Scotland and at least the introduction of a new system in Ireland, (5) and as the result of all these things a great development of trade and the foundation of a Trade Empire, which brings us into a position of permanent rivalry to France and Spain henceforth united in a family policy.' See also ii, p. 308. 'The second Revolution' is 'not a single occurrence belonging to the year 1688, but a long development beginning many years before and ending considerably later than 1688.'—ii, pp. 327-8.

³ i, part 1, ch. iii-viii.

⁴ i, p. 215.

which brought the Spanish Armada to our shores, she must answer that it was the conviction which the Spaniards formed that they could not deal with the rebellion in the Low Countries without dealing at the same time with the English question.’¹ The same qualities of the author are shown not less clearly and fruitfully in his analysis of the place of the English Revolution in relation to international affairs and the liberties of Europe,² in his estimate of the work of William III, ‘the *pius Aeneas*, who bears the weight of destiny,’³ and in his comparison and linking of the policy of Elizabeth, of Cromwell, and of William.⁴ ‘What began about 1567 with the commencement of the Dutch rebellion is in a sense completed at the Treaty of Utrecht. For us the result is that our state begins to assume the character of a great Trade Empire. . . . The second Revolution, which seemed to take its rise in religion, ends in commerce; it results, if we regard it comprehensively, in establishing a greater commercial state than the world had yet seen.’⁵

(b) Egerton, *British Foreign Policy in Europe to the End of the 19th century*.⁶

There is no work that gives a continuous account of British diplomacy and foreign policy on a scale commensurate with the importance of the subject; and it is a task that cannot be discharged adequately by the labour, knowledge, and good judgement of one man only. In the absence of such a work, this book will be found of use as a general introduction to the study of the subject.⁷ It is more especially concerned with

¹ *The Growth of British Policy*, i, p. 153.

² ii, pp. 274–348.

³ ii, p. 325.

⁴ e.g. ii, pp. 322–5.

⁵ ii, pp. 338, 339. Cf. pp. 343, 347, on the Second Hundred Years’ War, and the concluding chapter on ‘The Commercial State’.

⁶ 1917, pp. viii + 440.

⁷ ch. i, Introductory. ii, Religion, Trade and Foreign Greed; their Influence upon English Foreign Policy, 1570–1688. iii, The Resistance to French World-Supremacy; Anglo-French Rapprochements, 1689–1789.

British foreign policy during the nineteenth century, and in the exposition of policy 'from the eve of the French Revolution' the author has 'called in aid the actual words, written or spoken, of the leading statesmen and diplomatists who were responsible' for its conduct.¹

2. *The Cambridge Modern History*, vols. xi and xii, and *The Political History of England*, vol. xii; Lavissee and Rambaud, *Histoire générale*, vol. xii.

'In earlier volumes the attempt has been made to show the shifting from time to time of the centre of gravity in Europe. From about 1660 to 1870 that centre of gravity was undoubtedly in Paris. Since 1871 France, though still in the forefront of European culture, has lost something of her pride of place. The centre of European politics proper has been at Berlin; the centre of world-politics, which are also European politics in the larger sense, has been in London. And it is not by accident that the Hague, midway between London and Berlin and nearly equidistant from Paris, has been chosen as the meeting-ground of European Councils. Whether the coming generation sees the centre of world-politics transferred from London to Washington depends on various contingencies; among others on the policy adopted by Great Britain towards her self-governing Colonies, and on the degree of interest which the United States may come to take in matters outside their own boundaries. Up to the present², the United States have taken no share in European politics, little in world-politics; but the Spanish War and the annexation of the Philippines have introduced a change.'³

iv, British Foreign Policy during the French Revolution and the Empire, 1790-1814. v, The Concert of Europe, 1814-30. vi, The Growth of Nationalism. The Peculiar Character of Anglo-French Relations, 1830-53. vii, The Growth of Nationalism (contd.), 1854-70. viii, The New Europe and its Problems, 1871-1900. ix, British Sea-Power in its Relations to other Nations.

¹ p. vi.

² 1910.

³ *The Cambridge Modern History*, vol. xii, p. 12.

3. Débidour, *Histoire diplomatique de l'Europe contemporaine*, 1814-78.¹

4. (a) Treaties, as above,² and Hertslet, *The Map of Europe by Treaty*.³

(b) Phillimore (W. G. F.), *Three Centuries of Treaties of Peace and their Teaching*.⁴

The author has attempted to show how, and how far, the condition of Europe at the outset of the War of 1914 was due to previous diplomatic settlements, and 'how war could be prevented and how it could be humanized and regulated if it did occur'. He makes the broad assertion, that 'treaties of the eighteenth century give us lessons in regulation; treaties of the nineteenth, in humanization; while the twentieth century began with attempts at prevention, imperfect unhappily, and too weak to stand severe strain, but not without value as guides to a more perfect scheme in the future'.⁵

5. The Crown, Ministers, Parliament, and the Conduct of Foreign Policy.

The treatment of this subject in books is inadequate.

Anson, *Law and Custom of the Constitution: The Crown*; ⁶ Todd, *Parliamentary Government in England*; ⁷ Bagehot, *The*

¹ 2 vols., 1891.

² pp. 144-5.

³ See above, pp. 146-8.

⁴ 1917, pp. xvi + 227. Ch. i, Conditions of a Just, Lasting, and Effective Treaty of Peace. ii, Lessons supplied by Treaties of Peace from Westphalia, 1648, to the Congress of Vienna, 1815. iii, The Congress of Vienna and its Legacies. iv, The Making of Italy and the Remaking of Germany. v, The Treaty History of Eastern Europe. vi, Extra-European Treaties of Peace. vii, Treaties concerning the Laws of War. viii, How Treaties are brought to an End. ix, Conclusions. The author gives a useful list of authorities, pp. xiii-xvi, and a chronological list of treaties referred to in the text, pp. 179-84.

⁵ p. x.

⁶ 1908. Part 1, pp. 42-4, 128-30; Part II, pp. 102-8.

⁷ 2 vols., 1866. In ed. of 1892 (edit. by Spencer Walpole), i. 125-41 (Part II, ch. ii).

English Constitution; ¹ Spencer Walpole, *Foreign Relations*; ² *The Letters of Queen Victoria, 1837-61*; ³ Hansard, *Parlia-*

¹ 2nd ed., 1872. See the introductory pages to the 2nd ed. (and later eds.), pp. xli-lii: the work itself hardly touches the subject. See also a discussion, from opposing standpoints, of constitutional questions raised by the publication of the *Life of the Prince Consort* (the third volume), and especially with reference to public opinion as a guide in foreign policy, in *The Crown and the Cabinet*, by 'Verax', 'The Crown and the Constitution' in the *Quarterly Review*, April 1878, and the Reply of 'Verax' to the *Quarterly Review*, *Edinburgh Review*, July 1878.

² 1882, especially ch. iv.

³ 3 vols., 1907; in edition of 1908, i, pp. 106-7 (Palmerston to Queen Victoria, February 25, 1838); ii, pp. 221-2 (Lord John Russell to Prince Albert, on procedure as to the drafting of dispatches and on Palmerston, June 19, 1849), p. 264 and pp. 363-4 (the Queen's memorandum to Lord John Russell, 'shortly to explain'—'with reference to the communication about Lord Palmerston'—'*what it is she expects from her Foreign Secretary*', August 12, 1850), pp. 351-3 (Queen Victoria to Lord John Russell, December 28, 1851: 'The Queen thinks the moment of the change'—on Palmerston's dismissal—'in the person of Secretary of State for Foreign Affairs to afford a fit opportunity to have the principles upon which our Foreign Affairs have been conducted since the beginning of 1848 re-considered by Lord John Russell and his Cabinet'); iii, pp. 68-9 (the Queen to Lord Aberdeen, January 13, 1855), p. 334 (the Queen to the Earl of Malmesbury: 'The Queen is much afraid of these telegraphic short messages on principles of policy', May 20, 1859), pp. 367-8, 370, 371, 372-3 (the Queen, Russell, and Palmerston on responsibility for the conduct of foreign policy: 'What is the use of the Queen's open, and, she fears, sometimes wearisome correspondence with her Ministers, what the use of long deliberations of the Cabinet, if the very policy can be carried out by indirect means which can be set aside officially, and what protection has the Queen against this practice?'—The Queen to Russell, September 5, 1859. 'Lord John Russell feels, on his own part, that he must offer to your Majesty such advice as he thinks best adapted to secure the interests and dignity of your Majesty and the country. He will be held by Parliament responsible for that advice. It will always be in your Majesty's power to reject it altogether.'—Lord John Russell to Queen Victoria, October 7, 1859).

mentary Debates, e. g. on the Anglo-German Agreement and the Cession of Heligoland,¹ and on the motion in the House of Commons, March 19, 1918, that, 'in the opinion of this House, a Standing Committee of Foreign Affairs should be appointed, representative of all parties and groups in the House, in order that a regular channel of communication may be established between the Foreign Secretary and the House of Commons which will afford him frequent opportunities of giving information on questions of Foreign policy and which, by allowing Members to acquaint themselves more fully with current international problems, will enable this House to exercise closer supervision over the general conduct of Foreign affairs ;'² Keith, *Responsible Government in the British Dominions* ;³ *The Oxford Survey of the British Empire* ;⁴ *Extracts from Minutes of Proceedings laid before the Imperial War Conference, 1917* ;⁵ *The War Cabinet: Report for the Year 1917*.⁶

The subject is almost entirely ignored by A. Lawrence Lowell, *The Government of England*,⁷ and by Sydney Low,

¹ 3rd series, vol. cccxvi-cccxlvi. See below, Appendix, pp. 260-3.

² Parliamentary Debates, House of Commons, March 19, 1918, vol. 104, especially the speech of the Foreign Secretary (Mr. A. J. Balfour), 864-76. See below, Appendix, pp. 265-9.

³ 3 vols., 1912. See vol. iii, pp. 1102, 1126-30.

⁴ 6 vols., 1914, vol. i, *General Survey*, especially pp. 32, 54, 59, 84, 89, 114, 117. 'The diplomatic and consular services form the Intelligence Department of the Foreign Office, the eyes and ears of the State. They demand an Odyssean capacity for discovering the riddle of a foreign Government's intentions and for reading rightly the face of events. The diplomatic eye must, where necessary, see through the most authoritative of denials'—ch. ii, pp. 74-5, Barrington-Ward on 'The Foreign Office and its Agents'.

⁵ Cd. 8566, p. 61. See below, Appendix, p. 282.

⁶ Cd. 9005, pp. vi-vii. See below, Appendix, pp. 282-4.

⁷ 2 vols., 1908. See vol. i, pp. 45-6 and 86-7.

The Governance of England,¹ as it had also been by a mid-Victorian work of considerable repute, *The Government of England*,² by W. E. Hearn.

Lowell's *Governments and Parties in Continental Europe*³ is useful for a comparative study, and the following are authoritative works on the constitutions and the constitutional law of the European States: the Marquardsen series,⁴ *Handbuch des öffentlichen Rechts der Gegenwart*; Dareste, *Les Constitutions modernes*; ⁵ Demombynes, *Les Constitutions européennes*.⁶ More directly bearing on the subject of this section is Dupriez, *Les Ministres dans les principaux pays d'Europe et d'Amérique*.⁷ Whereas Mr. Lawrence Lowell is interested primarily in parties, M. Dupriez is interested in the minister. Mr. Lowell views the position of the minister chiefly as it affects the condition of parties; M. Dupriez touches on parties so far as they affect the authority of the minister. The Parliamentary Paper issued in 1912 on the treatment of international questions by Parliaments on the Continent of Europe, and in the United States and Japan,⁸ briefly expounds rights and procedure from the standpoint of the Houses, in pursuance of the resolution passed requesting information; very briefly, and unequally in the several reports, it shows also the position of the minister.

¹ 1904.

² 1867.

³ 2 vols., 1896. I, pp. xiv + 377: France; Italy; Germany. II, pp. viii + 455: Germany (contd.); Austria-Hungary; Switzerland. With Appendix: The Constitutional Laws of France; Statute of Italy; Constitution of the German Empire; Fundamental Laws of Austria; Constitution of Switzerland.

⁴ 1883 and subsequent years.

⁵ *Recueil des Constitutions en vigueur dans les divers États d'Europe, d'Amérique, et du monde civilisé*, 2nd ed., 1891, 2 vols., pp. xxv + 686, and 687. There are historical notes and bibliographies.

⁶ 2 vols., 2nd ed. 1883, pp. xxxix + 888, and 911. There are introductions.

⁷ 2 vols., 2nd ed., 1893.

⁸ Cd. 6102. See above, p. 166, and Appendix, pp. 270-8.

6. (a) Lord Augustus Loftus, *Diplomatic Reminiscences*, 1837-77.¹ They set forth much on the relations between Austria and Prussia, on the Eastern Question, questions affecting Italy, the Schleswig-Holstein Question, and on the character and policy of Bismarck.²

(b) Earl of Malmesbury, *Memoirs of an ex-Minister*:³ 'a macédoine,' says the author, 'of memoranda, diary, and correspondence.' The work is valuable for the years 1852-69, and especially for questions connected with Lord Derby's ministries and with Louis Napoleon.

(c) Maxwell, *Life and Letters of the Fourth Earl of Clarendon*,⁴ 'the able English Foreign Secretary'.⁵

(d) Newton, *Lord Lyons: a Record of British Diplomacy*,⁶ at Washington and Paris.

(e) Fitzmaurice, *Life of Earl Granville*.⁷

(f) Redesdale, *Memories*.⁸ There is a chapter on Clarendon and Granville.

7. *Parliamentary and State Papers*: see Index, 1853, for 1801-52, and 1909, for 1852-99; and *Catalogue*⁹ for 1801-1901; also *The Annual Register* and *The Times Index*.

¹ 4 vols., 1892, 1894.

² 'The position of an English Ambassador at Berlin', Bismarck is reported to have said, on November 30, 1871, 'has its own special duties and difficulties, if only on account of the personal relations of the two Royal families. It demands a great deal of tact and care.'—Busch, *Bismarck*, i. 343.

³ 2 vols., 1884.

⁴ 2 vols., 1913.

⁵ Lord Malmesbury in his reflections, in his *Memoirs*, on Lord Derby's death, October 23, 1869, followed in 1870 by that of Lord Clarendon.

⁶ 2 vols., 1913.

⁷ 2 vols., 1895.

⁸ 2 vols., 1915.

⁹ Published by P. S. King.

Literature of International Ethics

1. 'The true interest of everything is to conform to its own constitution and nature; and my nature owns reason and social obligation. Socially, as Antoninus, I have for my city and country Rome; as a man, the world.'¹

2. The mediaeval ideal²—of the *sacerdotium*, as of Pope Hildebrand; of the *imperium*, as of Frederick Barbarossa; of the *studium*, in the thought of Aquinas, on one side, as well as in the thought of Dante,³ on the other side—is the unity and concord of the Christian Commonwealth, whether a

¹ Marcus Aurelius Antoninus, *To Himself*, Book vi, 44.

² It has been sympathetically and finely appreciated by Robertson, *Regnum Dei* (1901), with St. Augustine's *De Civitate Dei* as the central theme.

³ Especially in his *De Monarchia*. Writing of the *Commedia*, Dean Church said: 'Lucretius had drawn forth the poetry of nature and its laws; Virgil and Livy had unfolded the poetry of the Roman Empire; St. Augustine, the still grander poetry of the history of the City of God; but none had yet ventured to weave into one the three wonderful threads.'—*Dante* (1878), with a translation of *De Monarchia* by F. J. Church. On the scheme of *De Monarchia* see pp. 88–90 and 93–7. See also Bryce, *Holy Roman Empire*, and Robertson, *Regnum Dei*.

The following extracts will show Dante's general standpoint. 'There is a certain proper operation of the whole body of human kind, for which this whole body of men in all its multitudes is ordered and constituted, but to which no one man, nor single family, nor single neighbourhood (*vicinia*), nor single city (*civitas*), nor particular kingdom (*regnum particulare*) can attain' (bk. i. iii). 'It is plain that the whole human race is ordered to gain some end. . . . There must, therefore, be one to guide and govern, and the proper title for this office is Monarch or Emperor. And so it is plain that Monarchy or the Empire is necessary for the welfare of the world' (bk. i. v). 'And as the part is to the whole, so is the order of parts to the order of the whole (*sic ordo partialis ad totalem*). The part is to the whole, as to an end and highest good which is aimed at; and, there-

World-Church (and it was the Church, before and more than the secular power, in the Middle Ages that had the attributes and majesty of 'the State'), or a World-State, Christian.

'Throughout the Middle Age,' it has been said,¹ 'and even for a while longer, the outward framework of all Political Doctrine consisted of the grandiose but narrow system of thoughts that had been reared by the Medieval Spirit. It was a system of thoughts which culminated in the idea of a Community which God Himself had constituted and which comprised All Mankind. This system may be expounded, as it is by Dante, in all its purity and all its fulness, or it may become the shadow of a shade; but rudely to burst its bars asunder is an exploit which is but now and again attempted by some bold innovator.'

'Political Thought when it is genuinely medieval starts from the Whole, but ascribes an intrinsic value to every Partial Whole, down to and including the Individual.'² 'In the Universal Whole, Mankind is one Partial Whole with a final cause of its own, which is distinct from the final causes of fore, the order in the parts is to the order in the whole, as it is to the end and highest good aimed at' (*Pars ad totum se habet, sicut ad finem et optimum. Ergo et ordo in parte, ad ordinem in toto, sicut ad finem et optimum*) (i. vi.). 'Further, the whole human race is a whole with reference to certain parts, and, with reference to another whole, it is a part. For it is a whole with reference to particular kingdoms and nations . . . , and it is a part with reference to the whole universe. . . . It is only under the rule of one prince that the parts of humanity are well adapted to their whole . . . ; therefore, it is only by being under one Princedom, or the rule of a single Prince, that humanity as a whole is well adapted to the Universe, or its Prince, who is the One God' (i. vii.).

¹ Gierke (Professor of Law in the University of Berlin), *Political Theories of the Middle Age*, translated with an Introduction (pp. vii-xlv) by Maitland, 1900, pp. 3-4. Both the text and the introduction show rare scholarship, and there are almost a hundred pages (101-197) of notes full of learning on mediaeval thought. See especially the chapters, 'Macrocosm and Microcosm'; 'Unity in Church and State'; 'The Idea of Organization'; 'The Idea of Personality'; 'The Relation of the State to the Law'.

² *Ibid.*, p. 7.

Individuals and from those of other Communities.¹ Therefore, in all centuries of the Middle Age Christendom, which in destiny is identical with Mankind, is set before us as a single, universal Community, founded and governed by God Himself. Mankind is one "mystical body"; it is one single and internally connected "people" or "folk"; it is an all-embracing corporation (*universitas*), which constitutes that Universal Realm, spiritual and temporal, which may be called the Universal Church (*ecclesia universalis*), or, with equal propriety, the Commonwealth of the Human Race (*respublica generis humani*). Therefore that it may attain its one purpose, it needs One Law (*lex*) and One Government (*unicus principatus*).²

'Le moyen âge fournit un beau chapitre à l'intéressant sujet de l'idéal de la paix dans l'histoire.'³

3. *Projects of Perpetual Peace*⁴ (Modern). The best-known are those of the Abbé de Saint-Pierre, Rousseau, Bentham, and Kant.

The Abbé de Saint-Pierre's *Projet de Paix perpétuelle*⁵ was

¹ 'Dante, I, c. 3 and 4, endeavours to define the common purpose of Mankind. He finds it in the continuous activity of the whole potency of Reason, primarily in the speculative, secondarily in the practical. This is the 'operatio propria universitatis humane'; the individual man, the household, the *civitas* and the *regnum particulare* are insufficient for it. For the achievement of it only a World-Realm will serve, and the *propinquissimum medium* is the establishment of an Universal Peace. Comp. III, c. 16.' *Ibid.*, note, p. 103.

² Gierke, op. cit., p. 10, and note, pp. 103-4, on mediaeval thought in relation to the Universal Church and the Commonwealth of Mankind. See, further, pp. 17-18, 22 (Society as organism), 75-6 (the Law of God, of Nature, and of Nations—*Ius Commune Gentium*, such law as all nations agreed in recognizing), 90-1 (the Final Cause of the State), and notes on pp. 188-9.

³ Nys, *Les Origines du Droit International* (1894), p. 388. The high mission of the Emperor was to maintain peace. '*Imperator-pacificus*, tel était le plus ancien, le plus beau de ses titres.' *Ibid.*, p. 390. '*Karolus gratia Dei Rex . . . a Deo coronatus magnus Pacificus Imperator*.'

⁴ Nys, ch. xiv, 'Les Irénistes,' gives mediaeval anticipations and analogies. See also the chapter, 'La Paix et les Traités de Paix', pp. 264-77.

⁵ 'Projet de Traité pour rendre la paix perpétuelle entre les souverains chrétiens, pour maintenir toujours le commerce entre les nations et pour

published at the time of the Peace of Utrecht, the Conference of which was attended by him; and his *Abrégé du Projet de Paix perpétuelle*,¹ in which his plan is developed, was published in 1729.

Wheaton has drawn attention to the 'almost verbal coincidence' between certain articles in Saint-Pierre's Project and those of the fundamental act of the Germanic Confederation established by the Congress of Vienna. He goes on to say: 'Fleury, to whom Saint-Pierre communicated his plan, replied to him: "Vous avez oublié un article essentiel, celui d'envoyer des missionnaires pour toucher les cœurs des princes et leur persuader d'entrer dans vos vues." But Dubois bestowed upon him the highest praise expressed in the most felicitous manner, when he termed his ideas: "les rêves d'un homme de bien." And Rousseau published in 1761 a little work to which he modestly gave the title of *Extrait du Projet de Paix perpétuelle de M. l'Abbé de Saint-Pierre*, but which is stamped with the marks of Rousseau's peculiar genius as a system-builder, and reasoner upon the problem of social science.'²

'Une lettre d'envoi était jointe à l'ouvrage', says M. Nys, writing on the Project of Saint-Pierre. 'C'est un projet, y lit-on, dont peut-être ni vous ni moi ne verrons jamais un fruit; mais par reconnaissance de ce que nous avons reçu de bien de nos ancêtres, ne devons-nous pas tâcher d'en procurer encore plus grands à notre postérité? Noble affirmation non point seulement de la continuité du progrès, mais du devoir pour tout homme de travailler à ce développement des forces de l'humanité, qu'au début du xiv^e siècle, Dante entrevoyait et qu'il appelait de ce beau mot, *civilitas*, la civilisation.'³

affermir beaucoup davantage les maisons souveraines sur le trône, proposé autrefois par Henri le Grand Roi de France, agréé par la Reine Elisabeth, par Jaques I, et par la plupart des autres potentats de l'Europe.'—2 vols., 1712 (about 700 pages); a third in 1717.

¹ 3 vols.

² *History of the Law of Nations*, pp. 263-4.

³ *Les Origines du Droit International*, pp. 398-9.

One of the articles of Saint-Pierre's Project stipulated that if any of the allied Powers should refuse to give effect to the judgements of the grand alliance, or should negotiate treaties in contravention of these judgements, the alliance should oppose the force of arms to the offending Power until it was brought to obedience.¹ The succeeding article of confederation declared that the general assembly of plenipotentiaries of this European alliance should have power to enact by a plurality of votes all laws necessary and proper to give effect to the objects of the alliance ; but no alteration in the fundamental articles was to be made without the unanimous consent of the allies.

These two articles form the link in the Projects of Perpetual Peace of Saint-Pierre, Rousseau, Kant, and Bentham.

How were the rights of the Federation to be extended and secured without impairing those of sovereignty ? How is each State to be left master in its own house, and yet fulfil the duty which it owes to the Federation ? That, as Rousseau clearly saw, was the vital problem, and to no political thinker could it be more real and critical than to the interpreter and champion of the general will in politics and the upholder of the rights of small States and of the saving function of Federation in their behalf.

We may express the problem in the terms of the problem of the *Social Contract*: 'Trouver une forme d'association qui défende et protège de toute la force commune la personne et les biens de chaque associé, et par laquelle chacun, s'unissant à tous, n'obéisse pourtant qu'à lui-même, et reste aussi libre qu'auparavant.'²

'En effet, chaque individu peut, comme homme, avoir une volonté particulière contraire ou dissemblable à la volonté générale qu'il a comme citoyen ; son intérêt particulier peut

¹ Article 4. See *Extrait du Projet de Paix perpétuelle* in Rousseau's *Œuvres* (1839), iv. 267 ; Vaughan, *The Political Workings of Jean Jacques Rousseau*, 2 vols., 1915, i, p. 375.

² *Du Contrat Social*, liv. 1, c. vi.

lui parler tout autrement que l'intérêt commun ; son existence absolue, et naturellement indépendante, peut lui faire envisager ce qu'il doit à la cause commune comme une contribution gratuite, dont la perte sera moins nuisible aux autres que le paiement n'en est onéreux pour lui ; et regardant la personne morale qui constitue l'état comme un être de raison, parceque ce n'est pas un homme, il jouiroit des droits du citoyen sans vouloir remplir les devoirs du sujet ; injustice dont le progrès causeroit la ruine du corps politique.

' Afin donc que le pacte social ne soit pas un vain formulaire, il renferme tacitement cet engagement, qui seul peut donner de la force aux autres, que quiconque refusera d'obéir à la volonté générale y sera contraint par tout le corps ; ce qui ne signifie autre chose sinon qu'on le forcera d'être libre ; car telle est la condition qui, donnant chaque citoyen à la patrie, le garantit de toute dépendance personnelle ; condition qui fait l'artifice et le jeu de la machine politique, et qui seule rend légitimes les engagements civils, lesquels, sans cela, seroient absurdes, tyranniques, et sujets aux plus énormes abus.'¹

' Tout malfaiteur, attaquant le droit social, devient par ses forfaits rebelle et traître à la patrie ; il cesse d'en être membre en violant ses lois ; et même il lui fait la guerre. Alors la conservation de l'état est incompatible avec la sienne, il faut qu'un des deux périsse ; et quand on fait mourir le coupable, c'est moins comme citoyen que comme ennemi.'²

Rousseau's *Contrat Social ou Principes du Droit politique* was only part of the *Institutions politiques* planned by him. In the concluding chapter he made it clear that it could not fall within his purpose in that work to examine the principles of international right, although it was a task that might very well be undertaken as a supplement to his endeavour in the *Social Contract* to lay down the true principles of right in politics and to found the State on that secure basis.³ Already in

¹ *Du Contrat Social*, I. vii.

² *Ibid.*, II. v.

³ 'Après avoir posé les vrais principes du droit politique, et tâché de fonder l'état sur sa base, il resteroit à l'appuyer par ses relations externes : ce qui comprendroit le droit des gens, le commerce, le droit de la guerre

his *Extrait de la Paix perpétuelle*¹ and in his *Jugement sur la Paix perpétuelle*,² as well as in *Émile*, which was published in the same year³ as the *Social Contract*, Rousseau shows his attitude of mind on the larger and wider questions of the external and international relations of States.

‘ Si jamais vérité morale fut démontrée, il me semble que c’est l’utilité générale et particulière de ce projet. Les avantages qui résulteroient de son exécution, et pour chaque prince, et pour chaque peuple, et pour toute l’Europe, sont immenses, clairs, incontestables; on ne peut rien de plus solide et de plus exact que les raisonnements par lesquels l’auteur les établit. Réalisez sa république européenne durant un seul jour, c’en est assez pour la faire durer éternellement, tant chacun trouveroit par l’expérience son profit particulier dans le bien commun. Cependant ces mêmes princes, qui la défendroient de toutes leurs forces si elle existoit, s’opposeroient maintenant de même à son exécution, et l’empêcheront infailliblement de s’établir comme ils l’empêcheroient de s’éteindre. Ainsi l’ouvrage de l’abbé de Saint-Pierre sur la paix perpétuelle paroît d’abord inutile pour la produire et superflu pour la conserver. C’est donc une vaine spéculation, dira quelque lecteur impatient. Non, c’est un livre solide et sensé, et il est très important qu’il existe.’⁴

‘ Un prince qui met sa cause au hasard de la guerre n’ignore pas qu’il court des risques; mais il en est moins frappé que des avantages qu’il se promet, parcequ’il craint bien moins la fortune qu’il n’espère de sa propre sagesse: s’il est puissant, il compte sur ses forces; s’il est foible, il compte sur ses

et les conquêtes, le droit public, les ligues, les négociations, les traités, etc. Mais tout cela forme un nouvel objet trop vaste pour ma courte vue; j’aurois dû la fixer toujours plus près de moi’.—IV. ix.

¹ Published in 1761; written in 1756.

² Published in 1782; written in 1756.

³ 1762.

⁴ *Jugement sur la Paix perpétuelle, Œuvres* (1839), t. iv, pp. 280–1; Vaughan (with slight variations, e.g. ‘République’ for ‘république’, ‘résulteraient’ for ‘résulteroient’, and a colon instead of a comma after ‘éternellement’), i, p. 388.

alliances ; quelquefois il lui est utile au-dedans de purger de mauvaises humeurs, d'affoiblir des sujets indociles, d'essuyer même des revers ; et le politique habile sait tirer avantage de ses propres défaites. J'espère qu'on se souviendra que ce n'est pas moi qui raisonne ainsi, mais le sophiste de cour, qui préfère un grand territoire, et peu de sujets pauvres et soumis, à l'empire inébranlable que donnent au prince la justice et les lois sur un peuple heureux et florissant.'¹

' Il ne faut pas non plus croire avec l'abbé de Saint-Pierre que, même avec la bonne volonté que les princes ni leurs ministres n'auront jamais, il fût aisé de trouver un moment favorable à l'exécution de ce système ; car il faudroit pour cela que la somme des intérêts particuliers ne l'emportât pas sur l'intérêt commun, et que chacun crût voir dans le bien de tous le plus grand bien qu'il peut espérer pour lui-même. Or ceci demande un concours de sagesse dans tant de têtes, et un concours de rapports dans tant d'intérêts, qu'on ne doit guère espérer du hasard l'accord fortuit de toutes les circonstances nécessaires : cependant si cet accord n'a pas lieu, il n'y a que la force qui puisse y suppléer ; et alors il n'est plus question de persuader, mais de contraindre ; et il ne faut plus écrire des livres, mais lever des troupes.

' Ainsi, quoique le projet fût très sage, les moyens de l'exécuter se sentoient de la simplicité de l'auteur. Il s'imaginait bonnement qu'il ne falloit qu'assembler un congrès, y proposer ses articles, qu'on les alloit signer, et que tout seroit fait. Convenons que, dans tous les projets de cet honnête homme, il voyoit assez bien l'effet des choses quand elles seroient établies ; mais il jugeoit comme un enfant des moyens de les établir.'²

This very difficulty confronted Rousseau in his *Social Contract*. Men and conditions being what they are, how was a true system of legislation to be instituted in any State ? What was the right moment for instituting it ? How was it to be sustained ? By what sanction ?

¹ *Œuvres*, iv, p. 283 ; *Vaughan*, i, pp. 390-1.

² iv, p. 284 ; i, p. 392.

‘Le corps politique a-t-il un organe pour énoncer ses volontés ? Qui lui donnera la prévoyance nécessaire pour en former les actes et les publier d’avance ? ou comment les prononcera-t-il au moment du besoin ? Comme une multitude aveugle, qui souvent ne sait ce qu’elle veut, parcequ’elle sait rarement ce qui lui est bon, exécuteroit-elle d’elle-même une entreprise aussi grande, aussi difficile, qu’un système de législation ? De lui-même le peuple veut toujours le bien, mais de lui-même il ne le voit pas toujours. La volonté générale est toujours droite, mais le jugement qui la guide n’est pas toujours éclairé. Il faut lui faire voir les objets tels qu’ils sont, quelquefois tels qu’ils doivent lui paroître ; lui montrer le bon chemin qu’elle cherche, la garantir de la séduction des volontés particulières, rapprocher à ses yeux les lieux et les temps, balancer l’attrait des avantages présents et sensibles par le danger des maux éloignés et cachés. Les particuliers voient le bien qu’ils rejettent ; le public veut le bien qu’il ne voit pas. Tous ont également besoin de guides. Il faut obliger les uns à conformer leurs volontés à leur raison ; il faut apprendre à l’autre à connoître ce qu’il veut. Alors des lumières publiques résulte l’union de l’entendement et de la volonté dans le corps social ; de là l’exact concours des parties, et enfin la plus grande force du tout.’¹

Rousseau wrote his *Jugement sur la Paix perpétuelle* in the year of the outbreak of the Seven Years’ War. The right moment for instituting a league for perpetual peace might well seem dim and distant. How could one, in the circumstance of that time, look for a common accord, or hope for a sudden inspiration ?² How should one criticize, and yet commend, the Abbé de Saint-Pierre ?

‘Qu’on ne dise donc point que si son système n’a pas été adopté, c’est qu’il n’étoit pas bon ; car le mal et les abus, dont tant de gens profitent, s’introduisent d’eux-mêmes. Mais ce qui est utile au public ne s’introduit guère que par

¹ *Du Contrat Social*, l. II, c. vi ; *Œuvres*, iv, p. 341 ; Vaughan, ii, pp. 50-1.

² ‘Sera-ce d’un commun accord, par une inspiration subite ?’—*Du Contrat Social*, l. II, c. vi.

la force, attendu que les intérêts particuliers y sont presque toujours opposés. Sans doute la paix perpétuelle est à présent un projet bien absurde ; mais qu'on nous rende un Henri IV et un Sully, la paix perpétuelle redeviendra un projet raisonnable : ou plutôt admirons un si beau plan, mais consolons-nous de ne pas le voir exécuter ; car cela ne peut se faire que par des moyens violents et redoutables à l'humanité.

'On ne voit point de ligues fédératives s'établir autrement que par des révolutions : et, sur ce principe, qui de nous oseroit dire si cette ligue européenne est à désirer ou à craindre ? Elle feroit peut-être plus de mal tout d'un coup qu'elle n'en préviendrait pour des siècles.'¹

In *Émile* Rousseau shows how, in fulfilling the plan of his *Institutions politiques*, he would have connected his study of the Social Contract with the study of Federation and of international relations.

'Après avoir ainsi considéré chaque espèce de société civile en elle-même, nous les comparerons pour en observer les divers rapports : les unes grandes, les autres petites ; les unes fortes, les autres foibles : s'attaquant, s'offensant, s'entre-détruisant ; et dans cette action et réaction continuelle, faisant plus de misérables, et coûtant la vie à plus d'hommes que s'ils avoient tous gardé leur première liberté. Nous examinerons si l'on n'en a pas fait trop ou trop peu dans l'institution sociale ; si les individus soumis aux lois et aux hommes, tandis que les sociétés gardent entre elles l'indépendance de la nature, ne restent pas exposés aux maux des deux états, sans en avoir les avantages ; et s'il ne vaudroit pas mieux qu'il n'y eût point de société civile au monde que d'y en avoir plusieurs. N'est-ce pas cet état mixte qui participe à tous les deux et n'assure ni l'un ni l'autre, *per quem neutrum licet, nec tanquam in bello paratum esse, nec tanquam in pace securum* ? N'est-ce pas cette association partielle et imparfaite qui produit la tyrannie et la guerre ? et la tyrannie et la guerre ne sont-elles pas les plus grands fléaux de l'humanité ?

¹ *Jugement sur la Paix perpétuelle*—concluding words, *Œuvres*, iv, p. 288 ; Vaughan, i, p. 396.

‘ Nous examinerons enfin l’espèce de remèdes qu’on a cherchés à ces inconvénients par les ligues et confédérations, qui, laissant chaque État son maître au dedans, l’arment au dehors contre tout agresseur injuste. Nous rechercherons comment on peut établir une bonne association fédérative, ce qui peut la rendre durable ; et jusqu’à quel point on peut étendre le droit de la confédération, sans nuire à celui de la souveraineté.

‘ L’abbé de Saint-Pierre avoit proposé une association de tous les États de l’Europe pour maintenir entre eux une paix perpétuelle. Cette association étoit-elle praticable ? et, supposant qu’elle eût été établie, étoit-il à présumer qu’elle eût duré ? ¹ Ces recherches nous mènent directement à toutes les questions de droit public qui peuvent achever d’éclaircir celles du droit politique.’ ²

The Utopians thought that leagues are useless things, and that, if the common ties of human nature do not knit men together, the faith of promises will not be of great effect on them : the partnership of human nature, that which is of all men and for all men, is instead of a league.³

But the contribution made by Rousseau, and partly by Saint-Pierre through him, to the promulgation of projects of Perpetual Peace has been so influential, and subsequent contributors have added so little of positive value, that a more explicit account of what he said and how he reasoned, may be allowed and may be of use.

The imperfections of governments, Rousseau argued, are due less to their constitution than to their external relations. The greater part of the care which ought to be devoted to internal administration and welfare is withheld owing to the need of mere external security ; not the perfecting of itself,

¹ This was written before the publication of the *Extrait de la Paix perpétuelle* in 1761.

² *Œuvres*, iii, pp. 571-2 ; Vaughan, ii, pp. 157-8.

³ More, *Utopia*, pp. 118, 120, of ed. in English by Burnet, 1762.

but the mere preservation of the State against others, has the larger claim upon its time and energies. The ordering of social relations is not, as is too often assumed, the work of reason ; rather is it the work of the passions. We have gone either too far or not far enough ; we have done either too much or too little. Society is so organized that each of us is a fellow-citizen with the members of his own State, and yet is in a state of nature toward all the rest of mankind. In other words, men have prevented the lesser wars only to kindle wars that are greater and a thousand-fold more terrible. They have made particular unions among themselves and in so doing have really become enemies of the human race.

These are dangerous contradictions in the ordering of the affairs of men and the world. If there be any means of removing them, perhaps it is only through some form of federal government by which peoples may be united by ties similar to those which unite individuals ; by which peoples not less than individuals are rendered subject to laws.¹ This government, moreover, has this superiority over all others, that it combines the advantages of large and small States : it will be formidable without, owing to its power ; laws will be enforced ; it alone among Governments will contain at once subjects, persons in authority, and foreigners. In certain respects it is a new form of government. But it was not unknown to the ancients.² The ancient confederations, however, were inferior in wisdom to the Germanic and the Helvetic and to the States-General. Such confederations are still few and they are far from perfection. But that only shows that in politics as in ethics the

¹ ' . . . une forme de gouvernement confédérative, qui, unissant les peuples par des liens semblables à ceux qui unissent les individus, soumette également les uns et les autres à l'autorité des lois.'

² ' Les derniers soupirs de la Grèce devinrent encore illustres dans la ligue achéenne.'

range of our knowledge does little more than convince us how great are our evils.

Besides these leagues of a public and positive character, there may be tacit unions less apparent and yet not less real, resulting from a harmony of interests, an affinity of principles, a conformity of customs, or other factors that induce some common relationship between peoples who are divided. Thus may we say that all the Powers of Europe form a 'system'¹ among themselves uniting them by community of commerce, letters, manners, religion, and international law, and by regard for the maintenance of a resulting equilibrium, which it may be no one's special concern to maintain but which it would be less easy to destroy than many people think. There is a Society of the Peoples of Europe, with its roots in the past. From Rome have come to some of them codes of law. A stronger bond still, and one affecting more of them, is their religion. We must allow also for the facilities and the vast variety of intercourse among the peoples of Europe. We can speak, therefore, of 'a Europe' in a real sense in which we cannot conceive Asia or Africa. In Asia or in Africa we have merely a collection of peoples with nothing in common except that they belong to the same continent. But when we speak of 'Europe' the word at once suggests to the mind a real society founded on a community of manners, customs, religion, and even laws; and none of the peoples making up this Society can recede from its place and function in it without at once being the cause of troubles.

No doubt, it is easy to make sharp the contrasts that facts seem to force upon us—easy to set perpetual dissensions and the savagery of wars against the benevolence of the religion that is professed, the cruelty of the deed against the humanity of the maxim, the harshness of policy against the so great

¹ 'Une sorte de système.'

wisdom of the politics of the books, the excellent intentions of the heads of States, and the misery and degradation of their peoples, a fraternity of the peoples of Europe, against their mutual animosity. 'The Society of the Peoples of Europe' may well seem to be but a term of derision—an irony to express more pointedly the mutual distrust of the nations of Christendom.

The relative state of the Powers of Europe is in itself a state of war; let that be granted. Mutual engagements are entered upon. There is a lack of effective guarantees for their observance. Thus it is that each treaty, which from its very nature is merely partial and between some only of these Powers, is rather a short-lived truce than a true peace—is a provocative to war as soon as a change of circumstances shall have given fresh strength to claims of ambition or of right. Nor must it be forgotten that the public law of Europe has not been established or authorized by consent; it is devoid of general principles; it is ever changing according to time and place; its rules are full of contradictions which make it a prey to 'the right of the strongest'. In this condition of things reason is denied its sway. There is no trustworthy guide where things are so doubtful and hazardous. Reason may be excused for bending and conforming itself to selfish interest; and from the sway of selfish interest wars will continue to be unavoidable. And yet each in his own mind would be just, but for circumstances. There is a general sense of insecurity, for harmony has not been attained in the ordering of the interests and government of the several States themselves, much less between State and State. 'Voilà les causes générales et particulières qui nous unissent pour nous détruire, et nous font écrire une si belle doctrine sociale avec des mains toujours teintes de sang humain.'

To know the causes is to know the remedy, if there is one. We all see that there can be no society without a community of

interests, and that all division arises from an antagonism of interests. Reason would ask: Why leave so much, and so much that is vital, to mere chance and to the unceasing hazard of things that in themselves are most trivial? Reason would say: When there is a society there must needs be a compulsory power to order and regulate the movements of its members; without this power thus applied the community of interests and all reciprocal compacts can have no stability; and we are thrust back on a state of contradictions, uncertainties, insecurity, unlaw, and war. Let no one make the grave error of a false hope where so much is at stake: let no one imagine that this state of violence will pass away from the sheer force of things and without calling in the aid of art and of political thought which must guide that art. 'The system of Europe has precisely that degree of stability which suffices to maintain it in perpetual agitation without entirely overthrowing it; and if the evils we have thus to endure cannot be augmented, still less should we look forward to an end being put to them by any great revolution.'

Howsoever the existing balance of power in Europe has come about—whether from geographical necessity and thus by nature, or by art—we have to reckon with it, and to recognize that it is self-existing, self-supporting, for do we not see that when it is disturbed in one part it gives way only to re-establish itself forthwith in another? Princes who have been charged with aiming at universal monarchy have shown therein, if the charge is well-founded, more ambition than genius. A moment's reflection shows how absurd is the project. No European potentate can hope to vanquish the rest of the Powers of Europe in their existing state of development, military, economic, and political, and with the facilities they possess for co-operation against the ambitions of the aggressor; nor can we imagine a combination of great Powers sufficiently

sincere, harmonious and durable, to be able to subjugate and to hold in subjection the rest of Europe. It is not that the sea, the Rhine, the Alps, and the Pyrenees are obstacles that no ambition can surmount. These physical obstacles are fortified by others that spring from the nature and contrivances of men. The give-and-take of negotiations is an essential aid to the same end: 'preserve the balance' is the almost unvarying watchword. There is a more solid support. This support is the Germanic body which, placed almost in the centre of Europe, may be thought to contribute even more to the maintenance of its neighbours in their existing states than to that even of its own members. It is a body formidable on account of the extent of its territories and the vast number and valour of its peoples. Its very constitution renders it formidable, for that is of such a nature as to take from it both the desire and the means of conquest, and at the same time to make it a stout obstacle to those who are ambitious to conquer. This constitution of the Empire has undoubted defects, and yet it is certain that while it subsists the equilibrium of Europe will never be entirely destroyed, and that no sovereign of a European State need fear that he will be driven from his throne by another; the treaty of Westphalia will perhaps remain for ever the basis of our political system. Thus public law, a study which Germans cultivate with so much diligence, is even more important than they suppose. It is not only the public law of the Germanic body; it is the public law of the whole of Europe.

The existing system may be durable, but it is far from being one of rest: it is an uneasy equilibrium. The system is maintained only by an action and reaction which, without suddenly displacing any of the Powers, keeps them in continual agitation. Their efforts are ever in vain and yet ever being renewed, even as waves of the sea which without ceasing agitate its surface but cannot change its level. Suffering falls on the

peoples of Europe, and there is no appreciable gain to their sovereigns. As an association of States the system is imperfect. It is necessary to erect in its stead a solid confederation that shall last. That cannot be done unless all its members are brought into a state of mutual dependence, so that no one of them shall be in a position to resist all the rest, and any combination formed for particular and selfish ends, inimical to the interests of the confederation, shall have obstacles opposed to it fully adequate to prevent these ends from being attained. There are several clear requisites. The confederation must include all the Powers of Europe; at least, no Power that is not one of the weakest shall decline to be a member. There must be a common tribunal with power to establish general laws and regulations binding on all the members. It must have a coercive power capable both of compelling and restraining the action of each in conformity with the decisions that have been taken in common. It must have power capable of preventing any member from seceding from the confederation at its own whim and impulse, as soon as it imagines that its own particular interest is contrary to the general interest. Without the recognition of this general interest no such confederation can be formed; without it none that may incautiously be formed can endure. There are two pre-requisites: sufficient reason to see what is useful, and sufficient courage to do what is essential to the welfare and happiness of society.¹

The 'Germanic body' was far spent in decay and was preparing its self-destruction even while Rousseau was writing. The Peace of Westphalia might well seem to many to have been traitorously treated, and with it the whole of 'the system of Europe' undermined, when Austria and France

¹ *Œuvres*, iv, pp. 256-80, especially 257-66; Vaughan, i, pp. 365-87, especially 365-74.

were joined in alliance, and were allies against Prussia. The first Partition of Poland was the dying testament of the old Europe, and from Corsica, the cherished island of Rousseau's expectations of right established in a State, there came the great disturber of the peace, the rights, and the equilibrium of the States of Europe, and the destroyer of the Germanic body. Both Rousseau and the Abbé de Saint-Pierre might well seem to have been the dreamers of an empty dream—empty but for the heaviness of the consequences of a slothful overtrust for their fellow-men.

To expect men and nations to conform their actions to reason may be the utmost irrationality. Everything, however, that can be urged for the establishment of a League of Nations to prevent aggression, the domination of force, and injustice, has been said in principle, and even in much of the particulars, by Rousseau. He was endeavouring to ally reason and interest. He recognizes that life for a society is adjustment and harmony of organism and environment. It is his fault, as it is that of his imitators and inferiors, that he does not adequately analyse, nor adequately allow for, the influence of the environment, and that of the past in the present. His error was much less a deficiency of knowledge than an excess of faith. We cannot perfectly agree to everything that was related by Raphael; yet there are things in the commonwealth of Utopia that we rather wish than to-day can hope to see followed in our government. But the call for a high courage is more required than the call to a form of prudence and caution that abandons hope and may never drive business home. A high courage that dispenses with exact and intimate knowledge and regard for facts will be futile and dangerous. But high courage inspired by knowledge and sustained by circumspection is required to counteract the influence of the multitude of men who are 'prudent' because they are timid, who, without

either subtlety of intellect or nobility of mind, acquire a vulgar reputation for sagacity, whereas they are neither wise nor efficient.

‘A proposal of this sort is one of those things that can never come too early nor too late,’ said Bentham when he was introducing his ‘Plan for an Universal and Perpetual Peace’.¹

If a citizen of the world, he asked, had to prepare a universal international code, what would he assign to himself as his object? It would be the common and equal utility of all nations.² ‘War is mischief upon the greatest scale.’³ Among the causes or occasions of war have been ‘enterprizes of conquest’: means of prevention are confederations of defence, defensive alliances, and general guarantees. Attempts at monopoly in commerce, insolence of the strong toward the weak, and tyranny of one nation toward another, have been the causes or occasions of war: means of prevention are confederations defensive, and conventions limiting the number of troops to be maintained. No one, he asserts, could regard treaties implying positive obligations of this kind as merely chimerical; still less are those implying negative obligation.

‘There may arise difficulty in maintaining an army; there can arise none in not doing so. It must be allowed that the matter would be a delicate one: there might be some difficulty in persuading one lion to cut his claws; but if the lion, or rather the enormous condor which holds him fast by the head, should agree to cut his talons also, there would be no disgrace in the stipulation: the advantage or inconvenience would be reciprocal. Let the cost of the attempt be what it would, it would be amply repaid by success. What tranquillity

¹ Essay IV of his ‘Principles of International Law’, written between 1786 and 1789, *Works* (1843), ii, pp. 535–60.

² Essay I, ‘Objects of International Law’, *Works*, ii, p. 537.

³ Essay III, ‘Of War, considered in respect of its causes and consequences’, *Works*, ii, p. 544.

for all sovereigns!—what relief for all people! What a spring would not the commerce, the population, the wealth of all nations take, which are at present confined, when set free from the fetters in which they are now held by the care of their defence.’¹

In the case of *bona fide* wars a remedy must be sought in ‘The Tribunal of Peace’. Bentham’s Plan rested upon two ‘fundamental propositions’. One is the reduction and fixing of the force of the several nations composing the European system. The other is suggested by the wars of the eighteenth century, especially between Britain and France, and is a commentary upon them: it is ‘the emancipation of the distant dependencies of each state’—drastic counsel which its author did not confine to his Plan for Perpetual Peace. The objection, and the only objection, to the plan of a peace that shall be universal and lasting is its apparent impracticability—that it is not only hopeless, but hopeless to such a degree that any proposal to this effect deserves to be called ‘visionary and ridiculous’. It is said that the age is not ripe for such a proposal. Then, ‘the more it wants of being ripe, the sooner we should begin to do what can be done to ripen it’. Who that bears the name of Christian could refuse to assist with his prayers? What pulpit could refrain from seconding the author with its eloquence? ‘Catholics and Protestants, Church-of-England-men and Dissenters, may all agree in this, if in nothing else. I call upon them all to aid me with their countenance and their support.’

There are parts of Bentham’s Plan that are avowedly related to the rivalry of Britain and France in trade, in colonies and in sea-power; and he believed that a solid and thorough agreement between these two States would remove the principal obstacles to a plan of general and permanent pacification for

¹ Essay III, *Works*, ii, pp. 544–5.

Europe.¹ For the maintenance of such a pacification general and perpetual treaties might be formed, limiting the number of troops to be maintained. Further, 'the maintenance of such a pacification might be considerably facilitated by the establishment of a common court of judicature, for the decision of differences between the several nations, although such court were not to be armed with any coercive powers'. 'It is an observation of somebody's,' says Bentham, 'that no nation ought to yield any evident point of justice to another. This must mean, evident in the eyes of the nation that is to judge, evident in the eyes of the nation called upon to yield. What does this amount to? That no nation is to give up anything of what it looks upon as its rights—no nation is to make any concessions. Wherever there is any difference of opinion between the negotiators of two nations, war is to be the consequence. While there is no common tribunal, something might be said for this. Concession to notorious injustice invites fresh injustice. Establish a common tribunal, the necessity for war no longer follows from difference of opinion. Just or unjust, the decision of the arbiters will save the credit, the honour of the contending party.' Can the arrangement proposed, he asks, justly be called visionary, when it can be established regarding it, that it is to the interest of the parties concerned; that they are themselves sensible of that interest; and that the situation it would place them in is not a new one, but merely that from which they set out? Give up colonies; found no new ones: this will be to the interest both of the mother-country and of the colonies, and it will save the danger of war. Do not seek to encourage particular branches of trade by prohibiting rival manufactures, by taxing rival manufactures, or by means of bounties on the trade meant to be favoured. Do not enter into wars for compelling treaties

¹ See Propositions III-v and XI-XII, *Works*, ii, p. 550.

granting commercial preferences : do not even make alliances for the sake of purchasing such preferences, nor enter into any treaties for ensuring them. Such preferences are useless : ' they add nothing to the mass of wealth ; they only influence the direction of it '.

' Mark well the contrast. All trade is in its essence advantageous—even to that party to whom it is least so. All war is in its essence ruinous ; and yet the great employments of government are to treasure up occasions of war, and to put fetters upon trade.'

Therefore it is necessary to begin by trying to remove the causes of war. It is necessary to narrow the sphere of operation of jealousy—the vice of the narrow mind, and to expand that of confidence—the virtue of the enlarged mind. ' Clandestinity and secrecy ' in negotiation are unnecessary and mischievous.¹ Establish conditions as favourable as possible in regard to interest and in the conduct of affairs between nations, and thus prepare the ground and the atmosphere appropriate to an international tribunal that is to be The Tribunal of Peace. Even then force may have to be used. ' There might, perhaps, be no harm in regulating, as a last resource, the contingent to be furnished by the several states for enforcing the decrees of the court ', for the court will have power to put the refractory State, after a certain time, under the ban of Europe.

Bentham made the practical inception of his Plan depend upon the maintenance and permanence of friendly relations between Britain and France ; and already the younger Pitt had repudiated, both in words and by deeds, the rooted

¹ ' I lay down two propositions : 1. That in no negotiation, and at no period of any negotiation, ought the negotiations of the cabinet in this country to be kept secret from the public at large ; much less from parliament and after inquiry made in parliament. 2. That whatever may be the case with preliminary negotiations, such secrecy ought never to be maintained with regard to treaties actually concluded.' *Works*, ii, p. 554.

conception of Chatham, as well as of the ordinary Englishman, that the two countries were 'natural enemies'—enemies by inheritance and by the inevitable force of events and circumstance. But by an irony the Plan was projected almost on the eve of the French Revolution. It would be doing wrong to Bentham to say that this world-shaking event disturbed and distorted his sense of values. But it made him most anxious and resolute that his own understanding of values should not be misunderstood and perverted by others. 'Is', 'has been', 'ought to be', 'shall be', 'can': all, he exclaimed, are put for one another; all are pressed into the same service, made to answer the same purpose. By this 'inebriating compound' the elements of men's understanding had been put in confusion, every fibre of the heart had been inflamed, the lips had been prepared for every folly, the hand for every crime. 'From *imaginary* laws, from laws of nature, fancied and invented by poets, rhetoricians, and dealers in moral and intellectual poisons, come *imaginary* rights, a bastard brood of monsters, "gorgons and chimaeras dire".' The 'anarchist' may be known by the language which he uses. 'He will be found *asserting rights*, and acknowledging them at the same time not to be recognized by government', using instead of '*ought* and *ought not*, the words *is* or *is not*—*can* or *can not*. In former times, in the times of Grotius and Puffendorf, these expressions were little more than improprieties in language, prejudicial to the growth of knowledge; at present, since the French Declaration of Rights has adopted them, and the French Revolution displayed their import by a practical comment, the use of them is already a *moral crime*, and not undeserving of being constituted a legal crime, as hostile to the public peace'.¹ Bentham grossly misapprehended the

¹ 'Anarchical Fallacies', towards the end. In this work Bentham examined the Declarations of Rights issued during the French Revolution.

meaning and force of Natural Right in the history of reasoning on politics. It was in keeping with the tenor of his own scheme of political thought that he should base his Plan of Perpetual Peace upon grounds of general utility, and should press its acceptance on the ground that it was in accord with the common sense of men regardful of their common interest.

Of Kant it has been said that in the department of Politics he did away with the narrowness that threatened it, and entered with his deep priestlike thought into the great spirit of history and the progress of the liberty of peoples.¹

Kant's contribution to the cause of Perpetual Peace is measured not merely by his essay bearing that title but by essential parts of other works written by him on the Philosophy of Right and Politics. In the essay on Perpetual Peace the conclusions are more conspicuous than the reasoning; the articles are definite with a degree of sharpness that the preliminary conditions to be fulfilled do not warrant. In the case of Kant as in the case of Rousseau, the emphasis has been unduly laid on conclusions by those who cite him in their advocacy of a League of Nations and Perpetual Peace: too little heed has been given to the conditions that must, he said, first be satisfied. How the project is related as an ideal to facts and to the past in the present is best shown by Kant in his *Theory of Right*.² One of the short sections³ of that work and the few concluding sentences express more clearly and in truer proportion than the earlier essay, *Perpetual Peace*, the judgement of Kant on the lasting establishment of Peace. If we take these together and combine them with his teaching in other essays on principles of Politics and the relation of theory to practice in Politics, we shall be able to see the character of Kant's contribution to the study of this subject, the place which he holds in its

¹ Rosenkranz, one of the editors of Kant's *Works*.

² *Rechtslehre*, 1796-7.

³ § 61 of Part II, treating of Public Right.

history, and, in particular, his strikingly close connexion with Rousseau.

The essay 'Perpetual Peace'—*Zum ewigen Frieden*—was published in 1795—the year of the Treaty of Basel. By that treaty Prussia finished her first war of the French Revolution. Only a visionary could have seen in the Treaty of Basel the star of hope in the sky. The treaty was a link in a chain that discredited Prussia in the eyes of Europe; and to the historian of international relations the treaty is noteworthy, inasmuch as it involved a surrender by Frederick William III of the system of the Empire and the system of Europe.

The highest of all practical problems for the human race, Kant declared, is the establishment of a Civil Society universally administering right according to law.¹ How can we institute and establish a Society in which liberty, under external laws, is combined in the greatest possible measure with irresistible power? It is the most difficult of problems: its perfect solution is not to be looked for, so crooked is the wood out of which men are carved. It will be the latest to find a practical solution, for the pre-requisites are of an exacting character—correct appreciation of the nature of a possible constitution; vast experience drawn from the practice of the ages, and especially a good will favourably disposed towards the reception of the solution.² These are conditions that will not be easily satisfied in combination, and if they are satisfied at all it will be late in the course of time and after many attempts have been made in vain to solve the problem—that of establishing a true Civil Society. We have to reckon with the 'unsocial sociability' of men. Their disposition to enter

¹ 'The Natural Principle of the Political Order', Fifth Proposition.

² This third pre-requisite—the right moment and the right mind—is emphasized as strongly by Rousseau as by Kant, who gives clear evidence of being influenced here and at other vital points of his Politics by Rousseau.

into society is combined with a tendency to remain individuals, to resist the obligations of civil society, and thus to threaten its dissolution. Society must be made a moral and rational whole.

When an action is in agreement with juridical laws, we say that it has legality: when an action is in agreement with ethical laws, we say that it has morality. The coercion of law has its justification in the reason underlying the law. A perfect civil constitution cannot be established, unless the external relations between States are regulated according to law, with reason supporting the law. An advance has to be made from the lawless condition of savages: the Federation of Peoples has to be prepared for and entered upon. 'Every State, even the smallest, may thus rely for its safety and its rights not on its own power, nor on its own judgement of right, but only on this *Foedus Amphictionum*—on the combined power of this League of States, and on the decision of the common will according to laws.' This, said Kant, may seem to be very visionary; and the idea has been ridiculed in the way in which it has been put forward by an Abbé de Saint-Pierre or a Rousseau. But it is the inevitable issue of the necessity in which men are tied to each other. Wars should subserve—should, in their results, be made to subserve—this end. Wars (when we think of the purpose of Nature) are attempts to bring about new relations between peoples; through destruction or dismemberment they institute new political corporations. Out of all the actions and reactions of men is nothing rational to result? Is it to be said, and is it to be incontrovertible, that discord is natural to our species, and that, in spite of the presence of many marks of a civilized society, all is but a preparation for a 'hell of evils' at the end? Cultivated we have become, and to a high degree, in the sciences and arts. We are civilized, even to excess, in all that pertains to forms of politeness and social elegance. But much remains to be done before it can

be said that we have been moralized. Schemes of external aggrandizement are evidence of this imperfect condition. It is clear, therefore, that the perfecting of international relationship must be preceded in States by a process, and perhaps a long process, of internal improvement, for, without the appropriate disposition—the morally good disposition—on the part of the several commonwealths and their members, there cannot be a true and lasting League of Nations; there will be mere illusion and glittering misery.

When we are thinking of the end that should be, and is, set before humanity, right must not be conceived in compromises. We must not break right in halves, or place it somewhere between justice and utility. Nor should we permit ourselves to be deflected in our thought, and from our purpose, by the emphasis which the historian puts, almost exclusively, upon results and by the historian's definition—not merely his interpretation—of facts in the life of men in society. The 'result' usually becomes mixed up with principles of right. The result is uncertain: what the historian takes to be the result may not be the conclusive event. But, whereas the result, in the historian's sense, is uncertain, principles of right are always certain in themselves.

Little reflection is needed to see that a lasting universal Peace on the basis of the Balance of Power is a mere chimera. It would be like the house described by Swift, which the architect constructed so perfectly in conformity with the laws of equilibrium that when a sparrow lighted on the house it at once fell. No: the only remedy against so great evils is a system of International Right, founded upon public laws, and secured by power to enforce them, power to which every State must submit just as the several members of a State submit to the order of civil and political right established. 'Every people, for the sake of its own security,

may and ought to demand from any other people that it shall join in entering into a constitution, similar to the civil constitution, in which the right of each shall be secured. Thus would arise a League of Nations.'¹

What should be the Articles of a Perpetual Peace between States ?

I. *Preliminary Articles :*

(1) No conclusion of Peace shall be valid when it has been made with the secret reservation of the means for a future war.

(2) No State shall be merged by inheritance, exchange, gift or sale in another State.

(3) Standing armies shall, in the course of time, be entirely abolished.

(4) No National Debts shall be contracted in the pursuit of the external interests of the State.

(5) No State shall interfere by force with the system of government of another State.

(6) No State at war with another State shall use such methods of warfare as would render mutual confidence impossible in a future Peace.

II. *The Definitive Articles :*

(1) The Civil Constitution in every State shall be republican.²

(2) International Right shall be founded on a Federation of Free States.

(3) There shall be world-citizenship, in the sense that men,

¹ 'Perpetual Peace', second definitive article.

² By a 'republican' constitution Kant means one that observes the three following principles: the liberty of the members of a Society as men; the dependence of all its members on legislation common to all as subjects; and the legal equality of its members as citizens. No. xlviii of *The Federalist* has some acute remarks on 'a representative republic' and its distinction from 'a democracy'.

in the cosmo-political system, shall have free access to any State of the world, and a title to reside therein.

The main force of the contribution made by Kant to the study and history of this subject was compressed by him into a few words towards the close of his *Rechtslehre*, which was published about two years after his essay on Perpetual Peace.

The natural condition of nations as of individuals, he says,¹ is a condition that it behoves us to pass out of in order to enter into a condition founded on law. Before such transition, all the Right of Nations and all the external property of States that can be acquired or maintained by war are provisory merely; it is only in a Universal Union of States analogous to that by which a nation becomes a State² that they become peremptory. In no other way can a real condition of Peace be established. But there may be a too great extension of such a Union of States. The extension may include such vast and dissimilar territories that any real government of the Union, and any genuine protection of its individual members, will become impossible; we should be brought round again to a condition of war. 'Hence it is that the Perpetual Peace, which is the ultimate end of all the Right of Nations, becomes an impracticable idea.' But we must not therefore withdraw our allegiance and support from the political principles which have this end as their aim. These principles call upon us to aid the formation

¹ *Rechtslehre*, ii, § 61.

² Men and nations, owing to their mutual influence on each other, require a juridical constitution uniting them under one will, so that they may participate in what is right. This relation of the members of a nation to each other constitutes the civil union in the social state; and when viewed as a whole as affecting its constituent members it forms the State. When we are thinking of 'the supposed hereditary unity' of the people we speak of 'nation' rather than State; when we are thinking of the common interest pertaining to all to live in a juridical union, we speak of 'State' or 'Commonwealth'. *Ibid.*, ii, § 43.

of such unions among States as may promote a continuous approximation to a Perpetual Peace ; and these principles are not to be dismissed as being impracticable, for the problem of approximation is itself a problem that both involves a duty and tests good judgement.

Such a Union of States, with a view to the maintenance of Peace, may be called a General Congress of Nations. It is intended to be permanent. But the Congress is a voluntary combination of States. It would be dissoluble ; its duration would depend upon the sovereign wills of the several members of the League. It would not be such a union as is embodied in the constitution of the United States of America ; it would not be an indissoluble union.¹ It is only by means of a Congress of this kind that the idea of a Public Right among Nations can become real ; only by such means can their differences be settled by civil process, instead of by the barbarous means of war.

Perpetual Peace may not be realized. But that is no reason why we should not work towards its realization ; and towards that end we should work to establish that constitution which

¹ This appreciation by Kant of the nature of the constitution of the United States is noteworthy owing to the time at which it was written. 'If, in a word, the Union be essential to the happiness of the people of America,' said Madison in No. xlv of *The Federalist*, 'is it not preposterous, to urge as an objection to a government, without which the objects of the Union cannot be attained, that such a government may derogate from the importance of the governments of the individual States ?' In the course of a well-informed and able estimate of the influence of Chief-Justice Marshall on constitutional development in the United States, it has been said that a single phrase in one of his latest decisions struck the key-note of all, when he spoke of the exercise of the jurisdiction of the Supreme Court as 'indispensable to the preservation of the Union, and consequently of the independence and liberty of these States'.—*Constitutional History of the United States as seen in the Development of American Law*, by Judge T. M. Cooley and others (1889), p. 111.

seems most fitted to achieve the end. It may even be said that the universal and lasting establishment of Peace constitutes not a part only, but the whole final purpose and end, of the Science of Right as viewed within the limits of Reason. But there is need of caution as to the time and the means of action. We must take care lest by proceeding precipitately and in a revolutionary manner we destroy the existing defective constitution at the incalculable cost of annihilating, for some indefinite time, the whole foundation of law on which Society rests. But if we proceed by gradual reform, and are guided by certain clear and fixed principles, we may lead by continuous approximation to the highest political good : we may be led to Perpetual Peace.¹

The teaching of Rousseau and the teaching of Kant, partly inspired by Rousseau, on this subject are in agreement in the essentials. One of the subtlest of intellects and one of the strongest agree that there can be no lasting security for right among nations, and no hope of Perpetual Peace, unless a supra-national disposition can be engendered and fostered that shall prevail over national inherited sentiment. This inherited sentiment is in itself good ; without it there cannot be a nation. But this national sense of right and interest must be brought to subserve an international right and to contribute to the interest of all. There must be a League of Nations, and in that Federation the smaller States must be given adequate and, it may be, generous representation. The guardianship of the rights and interests of the smaller States must be a cherished function of such a League ; the touchstone of its success will, to no small extent, be found in how it discharges that function. In its very nature such a League is supra-national ; especially in the motive of its origin it is supra-national. The nations are in the League less as nations than as members of

¹ § 61 and the conclusion of *Rechtslehre*.

the League, and for its ends. Further, there is need of a supra-national force, need of a 'sanction' that is supra-national. A supra-national disposition, a supra-national League, and a supra-national force: these are all essential. But the most essential of these is the supra-national disposition. Without this there can be no true League. Without it force will be used neither in the right way nor for the right end. With the supra-national disposition fully and freely working there would be no need of force; the indwelling energy of the spirit of the Federation would make the use of force unnecessary. Yet the necessary means of using force for right would always be in reserve and always available against wrong threatened and a wrong done.

The whole question of the relation between Politics and Ethics is involved in this inquiry; and that has been an interminable theme for writers, and for such especially among them as treat of principles apart from the conditions that must shape policy, and discuss ends without making any due allowance for the imperfection of the instruments. The conclusions of two recent English writers may here be cited.

'Just so far as States are thoroughly formed,' said T. H. Green,¹ 'the diversion of patriotism into the military element tends to come to an end.' Will, not Force, is the true basis of the State. This diversion of patriotism into the military element is 'a survival from a condition of things in which, as yet, the State, in the full sense, was not; in the sense, namely, that in each territory controlled by a single independent government, the rights of all persons, as founded on their capacities for contributing to a common good, are equally

¹ *Lectures on the Principles of Political Obligation* (1895), pp. xxiv + 252, reprinted from his *Philosophical Works*, vol. ii. See the whole of the chapter entitled 'The Right of the State over the Individual in War'. The lectures were delivered during 1879-80.

established by one system of law.’¹ It is this capacity of contributing to a common good that tests the development of the relations between States. According as the organization of these relations becomes more nearly complete, ‘the more the motives and occasions of international conflict tend to disappear, while the bonds of unity become stronger’.²

The place of International Law, said Henry Sidgwick, is intermediate between Positive Law and Positive Morality, and parts of it ‘have reached a degree of definiteness that makes it resemble the former more than the latter. But this is not the case with the most important rules of international duty’.³ International duty is not to be determined on the basis of exclusive regard for ‘national interest’, and where the two conflict the former must be held paramount. Generally, however, ‘though not always’, it is the interest of a State ‘to observe the recognised rules of international duty, so long as it has a reasonable expectation that they will be observed by other States. It is a more doubtful question whether a State ought to risk war to prevent high-handed aggression by another State against a third.’⁴

If we examine the lawfulness of war by right reason, said Grotius, and by the nature of human society, which is the second and most nearly perfect rule to judge by, we shall plainly perceive that it is not all manner of force that is thereby forbidden, but that only which is repugnant to human society—that, namely, which invades the right of another.⁵

¹ *Ibid.*, pp. 175–6. See p. 177 for the influences which combined to turn Europe into an armed camp.

² pp. 177–8.

³ Sidgwick, *The Elements of Politics*, 1891, 2nd ed., 1897, pp. xxxiii + 665; ch. xvii on ‘International Law and Morality’, § 4. See also ch. xv, ‘Principles of International Duty’; ch. xvi, ‘The Regulation of War’.

⁴ *Ibid.*, ch. xviii, ‘Principles of External Policy’.

⁵ *De Iure Belli ac Pacis*, bk. I, ch. ii, § 1.

It has been the object of International Lawyers to assist in determining the nature and the obligations of this 'human society'. Since its foundation, International Law has assumed the existence of a great community of peoples—'the Family of Nations', 'the Society of Nations', to which rights in common pertain, and on which obligations in common rest. Keep faith, and aim at peace.¹ These are the two lasting injunctions of him whom we may still call 'Father of the Law of Nations'.² The end of war is peace.³ The history of International Law

¹ *De Iure Belli ac Pacis*, Preface and bk. III, ch. xxv, §§ 1-3, 7.

² In the introduction to the first volume (p. 12) of the Grotius Society (founded 1915), Professor Goudy says of the *De Iure Belli ac Pacis*, 'That great work must ever be regarded as the *matrix* of our science, and must be resorted to for the statement of fundamental truths.' 'International Law, if it is to have any enduring authority, must be based on the fundamental principles of human rights and must give effect to the common welfare of nations. All assertions of right arising from patriotism or "my country before everything" (*über alles*) must be swept aside as noxious hindrances to progress. The ideal of perpetual peace among civilized nations is indeed still a long way off—much further than pacifists too hastily suppose—but it is none the less the ideal of International Law. It is

The vision whereunto

Toils the indomitable world.'

The following Papers published in the volumes of the Grotius Society have value for the historical student: vol. ii (1917), 'The Principles underlying the Doctrine of Contraband and Blockade', by J. E. G. Montmorency; 'International Leagues', by W. R. Bischoff; vol. iii (1918), 'Treaties of Peace' (not 'as a means of terminating war', but 'as instruments of peace'), by Commander Sir Graham Bower; vol. iv (1919), 'The League of Nations', by Lord Parmoor; 'The Treaty-making Power of the Crown', by Judge Atherley Jones; 'Some European Leagues of Peace', by W. Evans Darby; 'Divergences between British and other Views of International Law', by Georges Kaechenbeeck; 'The Freedom of the Scheldt', by Albert Maeterlinck and by W. R. Bischoff, and discussion.

³ Grotius, op. cit., § 2, cites Aristotle, Sallust, St. Augustine.

records the progress of a community of rights, interests, and obligations among nations, and the expansion of the Family of Nations. History, in the proportions in which she is presented when she tells of the relations of States, has had more to say of disappointment and failures than of fulfilment and success, although it may be that the historian has given too little attention to the question propounded by Bishop Berkeley in the *Querist*, whether nations as well as individuals may not sometimes go mad.

All who are in the line of true succession from the founders of International Law have built upon this assumption of a Society of Nations. The assumption has been necessary to them for their definitions and their standards, their whole sense of values. 'The family of nations', we read in a well-known text-book,¹ 'is an aggregate of States which, as the result of their historical antecedents, have inherited a common civilisation, and are at a similar level of moral and political opinion.'² Outside of the Family no State can be regarded as a 'normal international person'.

If the assumption of a genuine Society of Nations were wholly valid, there would be little need to supplement it by instituting a formal League, which in time, if not in its origin, might be too mechanically governmental. Yet this assumption, almost complete in its range and character, has given to International Lawyers the ground for their hopes. 'It is a bright feature of modern civilisation', wrote one of the most distinguished of them in recent years, 'that the Governments of Europe allow in their intercourse with one another considerable weight to a rule of Right as controlling the dictates of ambition or of interest, and that their respect for such Right commends

¹ T. E. Holland, *The Elements of Jurisprudence*, first ed., 1880.

² *Ibid.*, p. 347 of the 7th ed., 1895. The book has a concise and helpful chapter (xviii) on International Law.

itself to the conscience of the Nations which they represent. No human society has ever long subsisted, or ever can long subsist, without being bound together by good laws, much less the Society of Nations. It has been the signal merit of the Statesmen of Europe, who have had charge of the international interests of their respective States during the last half century, that they have agreed to modify the customary Law of Nations from time to time so as to adapt it to the enlightened demands of an advancing civilisation. The consequence has been, that, however indeterminate in a certain sense are the rules of that Law, it is a Law of the Living, and not of the Dead, and whilst there will always be much question about the details of its application its flexibility as customary law will always preserve it from becoming obsolete. Meanwhile, those who by genius and study are capable of mastering its principles, and of applying them with discernment to the maintenance of a sound public opinion, where questions of Right and Wrong are at issue between Independent States, are in substance although not in form the true law-givers of Nations in this respect. They can however claim no supreme authority for themselves, but must rest satisfied with commending their views of international obligation to the reason of Statesmen, and to the conscience of mankind at large.' ¹

About three hundred years before these words were written, thirty-one years before the great work of Grotius was published, and in a year intermediate between the first and the more important of the books on War written by Gentilis, Grotius's precursor, the essential foundations of a true Law of Nations were made clear by one of the greatest and most representative of Englishmen—Richard Hooker. There is a law, he said, which concerns men as individuals. There is, secondly, a law

¹ Travers Twiss, *The Law of Nations . . . in Time of Peace*, new ed., 1884, pp. xlii-xliii.

which belongs to them as they are men linked with others in some form of political society; nor should they forget that 'as any mans deed past is good as long as him selfe continueth: so the act of a publike societie of men done five hundreth yeares sithence standeth as theirs, who presently are of the same societies, because corporations are immortall: we were then alive in our predecessors, and they in their successors do live still'.¹ There is a third kind of law—that which touches all the severall bodies politic, 'so far forth as one of them hath publike commerce with another. And this third is the *Lawe of nations*. Betweene men and beastes there is no possibilitie of sociable communion, because the welspring of that communion is a naturall delight which man hath to transfuse from him selfe into others, and to receyve from others into himselfe especially those thinges wherein the excellencie of his kind doth most consist. The chieftest instrument of humane communion therefore is speech, because thereby we impart mutuallie one to another the conceiptes of our reasonable understanding.² And for that cause seing beastes are not hereof capable, for as much as with them we can use no such conference, they being in degree, although above other creatures on earth to whome nature hath denied sense, yet lower then to be sociable companions of man to whome nature hath given

¹ Compare Burke: 'Society . . . is a partnership. . . . As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born. Each contract of each particular state is but a clause in the great primæval contract of eternal society, linking the lower with the higher natures, connecting the visible and invisible world, according to a fixed compact sanctioned by the inviolable oath which holds all physical and all moral natures, each in their appointed place.'—*Reflections on the Revolution in France, Works* (1823), v, p. 183.

² Arist. *Pol.* i, c. 2.

reason ; it is of Adam said that amongst the beastes *He found not for him selfe any meete companion*.¹ Civill society doth more content the nature of man then any private kind of solitarie living, because in societie this good of mutuall participation is so much larger then otherwise. Herewith notwithstanding we are not satisfied, but we covet (if it might be) to have a kind of societie & fellowship even with al mākind. Which thing Socrates intending to signifie professed him self a Citizen, not of this or that cōmon-welth, but of the world.² And an effect of that very natural desire in us, (a manifest token that we wish after a sort an universall fellowship with all men) appeareth by the wondrous delight men have, some to visit forrein countries, some to discover natiōs not heard of in former ages, we all to know the affaires & dealings of other people, yea to be in league of amitie with them : & this not onely for trafiques sake, or to the end that when many are cōfederated each may make other the more strong, but for such cause also is ³ moved the Queene of Saba to visit Salomon ; ⁴ & in a word because nature doth presume that how many mē there are in the world, so many Gods as it were ther are, or at least wise such they should be towards men. Touching lawes which are to serve men in this behalfe, even as those lawes of reason which (man retayning his original integritie) had bene sufficient to direct each particular person in all his affaires & duties, are not sufficient but require the accesse of other lawes, now that man and his offspring are growne thus corrupt and sinfull ; againe as those lawes of politie & regiment, which would have served men living in publique societie together with that harmlesse disposition which then they should have had, are

¹ Gen. ii. 20.

² Cic. *Tusc.* 5 [cap. 37], and 1, *de legib.* [cap. 12].

³ A misprint, in the first edition, for 'as'.

⁴ 1 Kings x. 1 ; 2 Chron. ix. 1 ; Matt. xiii. 42 ; Luke xi. 31.

not able now to serve when mens iniquitie is so hardly restrained within any tolerable bounds : in like manner the nationall lawes of mutuall commerce betweene societies of that former and better qualitie might have bene other then now, when nations are so prone to offer violence iniurie and wrong. Here-upon hath growne in everie of these three kinde that distinction between *Primarie* & *Secundarie* lawes ; the one groüded upon sincere, the other built upon depraved nature. *Primarie* lawes of nations are such as concerne embassage, such as belong to the courteous entertaynment of forreiners and strangers, such as serve for commodious trafique & the like. *Secundarie* lawes in the same kinde are such as this present unquiet world is most familiarly acquainted with, I meane lawes of armes, which yet are much better known then kept. But what matter the lawe of nations doth containe I omit to search. The strength and vertue of that law is such that no particular nation can lawfull preiudice the same by any their severall laws & ordinances, more then a man by his private resolutions the law of the whole common welth or state wherin he liveth. For as civill law being the act of a whole body politique doth therfore overrule each severall part of the same bodie : so there is no reason that any one common welth of it self should to the preiudice of another annihilate that whereupon the whole world hath agreed.' ¹

¹ *Of the Lawes of Ecclesiasticall Politie*, bk. I. 10, pp. 74 and 76-7 of the first edition, which has been followed in the extract given.

APPENDIX I

Extracts illustrative of the Function of the Ambassador, the Qualities of the Diplomatist, and the Conduct of Negotiations

I

The Function of the Ambassador

(I) VERA, *El Embaxador*, translated into French under the title *Le Parfait Ambassadeur*:¹

Definition de la Charge d'Ambassadeur: 'Un Conciliateur des affaires des Princes, un homme envoyé de loin, pour traiter des affaires publiques, par élection particuliere non avec des ruses ou finesses de guerre, mais avec l'éloquence & la force de l'esprit. Autres auteurs luy donnent cette définition: C'est, disent-ils, un sujet qui ressemble à un Mediateur d'amour. Et afin que cette comparaison ne vous semble pas indigne de la matiere, écoutez ce que Platon en dit. Il n'y a rien à dire de l'Orateur au Cuysinier. Comme le bon Cuysinier avec ses divers assaisonnemens, donne bon goust à plusieurs viandes qui seroient fades toutes seules: ainsi l'Orateur, avec la douceur de son éloquence & la variété des figures de Rhétorique, rend agreables plusieurs matieres qui seroient odieuses aux mesmes oreilles à qui elles plaisent, sans estre pourveuës de cet ornement: Ainsi un Ambassadeur, est un Mediateur d'amour, qui par son industrie unit deux volonteiz contraires.'—*Le Parfait Ambassadeur*, pp. 32-3.

'L'Ambassadeur est apelé, de quelques uns, l'organe par laquelle les pensees & les conceptions des absents se communiquent, & l'Ambassade l'Art de conserver deux Princes en amitié.'—*Ibid.*, p. 36.

¹ See above, pp. 152-3.

Qui fut l'auteur de la premiere Ambassade : 'La necessité en fut l'inventrice, quand la Deesse Pandore sema par le monde les calamitez & les travaux au lieu des biens que les Dieux luy avoient deposez. Apres ce siecle doré & heureux, que les hommes commencerent à habiter les maisons, & à diviser le propre d'avec celui d'autrui, ce fut lors que les Ambassades furent introduites, pour essayer en remontrant l'équité, à recouvrer ce que l'ambition & la force des uns, avoit usurpé sur la simplicité & la foiblesse des autres ; ou bien pour d'autres negoces & traitez : On dit que le Roy Bellus fut le premier qui se servit de ce moyen : mais les Poëtes l'attribuent a Palamedes.'—*Ibid.*, pp. 53-4.

(2) WICQUEFORT, *L'Ambassadeur et ses Fonctions*, translated into English by John Digby under the title, *The Ambassador and his Functions* :¹

Of the Function of the Ambassador in general : a Messenger of Peace ; an honourable Spy : 'I make use of this Word on purpose to distinguish between the Functions and the Actions of an Ambassador ; because the ones have a nearer Relation to the Character, and the others to the Person. The Ambassador does not always negotiate ; that is to say ; he ought not always to act the Ambassador every where, and on all Occasions. I said elsewhere, that he ought to have a Tincture of the Comedian,² and I must here add, That perhaps in the whole Commerce of the World, there is not a more comical Personage than the Ambassador. There is not a more illustrious Theatre than a Court ; neither is there any Comedy, where the Actors seem less what they are in effect, than Ambassadors do in their Negotiation ; and there is none that represents more important Personages. But as the best Actor is not always upon the Stage, but changes his manner of Behaviour after the Curtain is drawn ; so the Ambassador who has play'd his part well in the Functions of his Character, ought to act the Man of Honour and the Gentleman, when he comes to act the Comedian . . . This compound of Formalities, Decencies, and Circumspections may indeed form a politick Pedant, but not a perfect Ambassador, who ought to be a consummate gallant Man, that is to

¹ See above, pp. 153-5.

² See Callières, below, p. 227.

say, a Man fram'd to the Mode of the Court. Nothing hinders an Ambassador from seeing and entertaining the Ladies ; but if on these Occasions, where even Kings themselves show themselves communicative and familiar, he should affect to be grave, and keep up the Character of Ambassador ; I would not say that he would thereby render himself ridiculous, but he would not be far from it. . . . I have spoken . . . of the Instruction Queen *Elizabeth* gave in the Year 1570 to *Francis Walsingham*,¹ who went on her Part in the Quality of Ambassador into *France*. It contains almost all the general Duties of an Ambassador in Ordinary . . . In these few Lines you find the two first Functions of an Ambassador, who is represented there as a *Messenger of Peace* on one side, and as an *honourable Spy* on the other . . . One of the first Things that the Ambassador ought to do, to succeed in the Profession of a Spy, is to study well the Humour and Genius of the Ministers that compose the Council of the Prince with whom he is to negotiate . . . All Ministers are Men, and as such they have their *Foible* . . . *Commynes* says, there is not any Court but has Malecontents in it : and I think I may add ; there are none without Traytors ;

¹ See *Foreign Calendar*, 1569-71 ; and the first 'instructions' in 'The Compleat Ambassador : or Two Treaties of the Intended Marriage of Qu: Elizabeth of Glorious Memory ; comprised in Letters of Negotiation of Sir Francis Walsingham, her Resident in France. Together with the Answers of the Lord of Burleigh, the Earl of Leicester, Sir Thos: Smith, & others. Wherein, as in a clear Mirror, may be seen the Faces of the two Courts of England and France, as they then stood ; with many remarkable passages of State, not at all mentioned in History. Faithfully collected by the truly Honourable Sir Dudley Digges Knight, late Master of the Rolls.' Small folio, 1655, pp. (xiv +) 441 (and Index of 6 pp.). 'A. H.' in his words 'To the Reader', written in 1654, says regarding Walsingham that the Papers brought together in this volume show 'how vigilant he was to gather true Intelligence ; what means and Persons he used for it ; how punctual he was in keeping to his Instructions, where he was limited ; and how wary and judicious where he was left free ; still advancing, upon all occasions, the Reputation and Interest of his Great Mistress, with a most lively and indefatigable Devotion.' 'For the second Treatie,' writes 'A. H.', 'which was set on foot in the year 1581 with Monsieur the Duke of Alanson I do conceive that it was really intended by the French, and by the chief of the English Council, except Leicester (who had pretensions of his own ;) but for her own Mind, what that really was, I must leave, as a thing doubly inscrutable, both as she was a Woman and a Queen'—'To the Reader'.

but as the Ambassador must distrust these, so he ought not indifferently and without Distinction to put his Confidence in those : . . . It requires a great Penetration to see to the Bottom of the Heart of Man, which is impenetrable to all other Understandings but the Divine. It is what no Rules nor Instructions can be given for, except in general, that the Ambassador ought to form himself by his own Experience.' ¹—*L'Ambassadeur et ses Fonctions*, translated by Digby, pp. 294, 296, 300.

(3) CALLIÈRES, *De la Maniere de negocier avec les Souverains* : ²

Des Fonctions du Negociateur : ³ ' Les fonctions d'un Ministre envoyé dans un Pays étranger se peuvent reduire à deux principales ; l'une est d'y traiter les affaires de son Prince, & l'autre est de découvrir celles d'autrui.' ⁴

' Il doit encore s'instruire exactement de l'Etat de ses forces, tant de terre que de mer, du nombre de ses Places, si elles sont bien munies & bien fortifiées, de l'état de ses Ports, et ses Vaisseaux & ses Arcenaux, quelles troupes il peut mettre en campagne, tant de Cavalerie que d'Infanterie, sans dégarnir ses places et ses frontieres ; quels sont ses revenus ordinaires et extraordinaires, & quel est son credit sur la bourse de ses sujets, s'ils sont affectionnez ou mécontents ; les intrigues qui sont dans sa Cour, s'il y a des factions & des partialitez dans son Etat & entre ses Ministres sur le gouvernement, ou sur la Religion ; sa dépense annuelle, tant pour sa maison, que pour l'entretien de ses troupes, & pour ses plaisirs, quelles sont ses alliances, tant offensives que défensives avec d'autres Puissances, & celles qui sont ennemies ou suspectes, qui sont les Princes et les États qui recherchent son amitié, quelles démarches ils font pour cela, & à quelles fins, quel est le principal traffic qui se fait dans ses États, leur fertilité ou leur sterilité.' ⁵

¹ See, further, Book II, ch. ii, ' With whom the Ambassador ought to negotiate ', pp. 301-6 ; ch. iii, ' How the Ambassadors ought to negotiate ', pp. 306-15 ; ch. iv, ' The Ambassador ought not to meddle with the Domestick Affairs of the State where he negotiates ', pp. 315-22 ; ch. v, ' The Ambassador ought to execute his Orders, and how ', pp. 322-8 (' Cardinal Mazarin's Orders were sometimes admirable, but very perplexing ', p. 328).

² See above, pp. 155-6.

³ ch. viii, pp. 85-100.

⁴ p. 85.

⁵ pp. 96-7.

(4) MARTENS (Charles de), *Le Guide diplomatique* :¹

Des Fonctions de l'agent diplomatique : 'Les fonctions du ministre sont la pratique de ses devoirs ; nous n'en saurions donner une définition à la fois plus courte et plus complète . . . La *vigilance* du ministre public s'étend à tout ce qui se passe sous ses yeux . . . Il y a des circonstances délicates où la conduite des affaires exige d'aller au delà de la souplesse, et où la *ruse* peut devenir nécessaire et même licite, surtout quand l'agent qui y recourt se trouve excusé d'en faire usage par l'emploi qu'on fait contre lui . . . Il y a des moments critiques dans la vie des États où il semble que les circonstances dans lesquelles ils se trouvent doivent tout absoudre ; mais il en est de semblables dans celle des individus, et qui oserait affirmer que, également menacés, les uns puissent s'affranchir de la loi et non les autres ? Faire de la corruption un moyen applicable à tous les cas où elle peut être profitable, c'est en faire aussi un dissolvant universel ; c'est ouvrir la porte à tous les scandales, c'est apprendre aux hommes à capituler avec leur conscience : là où la vénalité prévaut l'honneur abdique.'²

2

Qualities of the Diplomatist

1. *Bon Ambassadeur : Bon Orateur* :³

(a) 'Pyrrhus afferma plusieurs fois qu'il avoit plus conquis de citez avec l'Eloquence de Cineas, qu'avec les armes de ses guerriers. Pyrrhus avoit raison, car outre que Cineas le servoit avec un grand zele, il se gouvernoit fort prudemment & avoit si bonne memoire, qu'estant allé Ambassadeur à Rome, dès le lendemain de son arrivee, à ce que dit Conrard, il sçavoit appeller tous les Senateurs par leur nom . . . ' 'L'appelle⁴ vertu en l'Ambassadeur, une industrie absolue approuvee de plusieurs experiences, de sciences civiles, d'une connoissance parfaite des Histoires, d'une naturelle Eloquence & d'une connoissance generale de toutes les affaires qu'on luy peut commettre, & en

¹ See above, pp. 156-7.

² *Le Guide diplomatique*, i, pp. 174, 174-5, 177.

³ *Le Parfait Ambassadeur*, pp. 177-8 ; p. 17, foot-note, above.

⁴ 'Louis' speaking in Vera's dialogue.

fin, d'une prudence & vivacité d'entendement, qui puisse donner une methode pour faire reüssir un affaire, ou pour détourner les obstacles qui s'y oposeront : d'autant qu'en cette prudence que i'entends, il s'y trouvera les especes deliberative, indicative, & preceptive ; qui sont requises en un Ambassadeur ; à la premiere de ces especes appartient la faculté de discourir pour & contre la matiere qui se proposera ; la seconde, d'eclaircir la resolution qui se prendra ; & la preceptive, pour la mettre en execution . . . Et l'on peut prouver par Athenes, Corinthe & Rome, que l'antiquité ne concedoit iamais Ambassade à personne qu'il ne fust Orateur fort eminent. Georges Lontinus fut plusieurs fois en Ambassade à Athènes, non pas pour estre le plus noble des Latins, mais parce qu'il estoit le plus eloquent.¹

(b) 'On a donné le nom d'Orateurs aux Ambassadeurs, pour exprimer qu'il faut qu'ils sachent bien parler ; mais l'éloquence d'un Ambassadeur doit être fort differente de celle de la Chaire & du Barreau, ses discours doivent être plus pleins de sens que de paroles, sans y affecter des termes trop recherchez, il faut qu'il accommode son discours à ceux ausquels il l'adresse & que tout ce qu'il dit concoure à la fin qu'il se propose, qui est de les convaincre des choses qu'il est chargé de leur représenter & de les déterminer à prendre les resolutions qu'il desire, ce qui est la preuve de la vraie éloquence.

S'il parle à un Prince, il faut qu'il le fasse sans élever sa voix, mais du ton d'une conversation ordinaire, d'un air modeste & respectueux & d'un stile concis, après avoir bien pesé & examiné les expressions dont il se sert, les Princes n'aiment pas les longs discours ni les grands parleurs, un habile Negociateur ne doit pas tomber dans ce deffaut, qui ne convient qu'à des Ecoliers ou à des pedans, la sagesse & les longs discours se trouvent rarement ensemble.'²

2. (a) *Of the birth and learning of an Ambassador*:³ 'I cannot tell whether the Men of Letters are fitter for Embassy than Tradesmen : but I shall not scruple to say, that an *Embassador* is not better form'd in the College than in the

¹ *Le Parfait Ambassadeur*, pp. 178-9, 180-1.

² Callières, pp. 232-3.

³ Wicquefort, *L'Ambassadeur et ses Fonctions*, translated by Digby.

Shop. If the one renders us Cowardly and Self-interested the other makes us Clownish and Opiniated; and neither in the one nor in the other is learn'd what an Ambassador ought to know; . . . Cardinal *Bessarion* was a very fit man to fill a Professor's Chair, to teach the *Greek* Tongue; as in reality he was one of those, that revived the primitive Knowledge of it in the most *Western* Parts of Europe, in the fifteenth century; but when he was put into another Profession, and was vested with the Quality of *Legate*, to negotiate with the first Princes of Christendom, he discover'd his Ignorance, and made it plain that he did not know the first Rudiments of it, by going to see the Duke of *Burgundy*, before he had visited the King of *France* . . . I am so far also from excluding all the Learned from this sort of Employment, that I could wish all that enter upon it were learned; provided that with their Learning, they had also all the other necessary Qualifications. . . . There is a Habit contracted in reading, which is directly opposite to the constant activity of an Ambassador . . . the School infects with a certain contracting Humour, which is inconsistent with the Character of a well-bred Man. They who study only as much as is requisite to become such, and to make Learning subservient to their Profession, have thereby a great Advantage; tho' good sense always relieves those who have not Study'd. The Study of polite Literature ought to be a Foundation to all the Ambassador's Knowledge: There true Morality is to be learn'd . . . There is no Philosopher that teaches it more agreeably than *Horace* . . . Provided we do not strike into Criticism nor Pedantry, we shall find there the Principles of Honesty, which ought to be the first Quality of the Ambassador. The Knowledge of the Civil Law, if it be founded upon that of the History of the *Roman* Laws, is an admirable Ingredient for a Minister. But there are but few that apply themselves to it; because to speak the Truth, the major Part of the Doctors that teach it, do not understand it; or if they do understand it, they will not give themselves the trouble to teach it to their Scholars . . . There is nothing but the perfect Knowledge of the State of ancient *Rome*, and of the Occasions upon which the Laws were enacted, that can give a right judgment of the Intention of the *Legislators*; as

well as of the Reasons, upon which so many great Men have grounded the Opinions, that compose the *Digests* or *Pandects*; as the Decrees and Edicts of the Emperors make what is call'd the *Code*, and the *Authenticks*. . . . But the chief Study of those that design to be employ'd in Embassies, ought to be that of *History*; I comprehend under that Name all that depends thereon, and is any way useful to it, as Memoirs, Instructions, and Negotiations; and particularly Treaties . . . It may be said of *History*, that there is none so bad but something useful shall be found in it . . . *Thucidides*, *Xenophon* and *Polybius* amongst the *Greeks*: *Titus Livius*, *Julius Caesar*, *Sallustius*, *Velleius Paterculus* and *Tacitus* amongst the *Romans*, ought to be study'd . . . Let our Politicians give the first Place to *Tacitus* if they please, for my part I shall be bold to say, that upon an equitable and impartial Judgment, *Philip de Comines* . . . is nothing inferior to him in any respect whatever . . . There is not any Book so useful to Princes and Ministers as the *Memoirs of Comines*. His Disinterestedness appears every where, he does Justice to every Body; and there is not any remarkable Accident, of which he does not assign the first Cause to His Providence, who holds the Hearts of Kings in his Hand; that is to say, the God of Battles, who alone disposes of Crowns and Monarchies. *Nicholas Machiavel's* History of *Florence* is a compleat Work, and almost inimitable . . .¹

(b) *Des Connoissances necessaires et utiles à un Negociateur*:²
 'Un homme qui est né avec les qualitez propres à traiter les affaires publiques, & qui se sent de l'inclination à s'y apliquer, doit commencer par s'instruire de l'état où se trouvent les affaires de l'Europe, des principaux interêts qui y regnent & qui la divisent, de la forme des divers gouvernemens qui y sont établis & du caractere des Princes, des Generaux & des Ministres qui y sont en autorité & en credit.'³

'L'étude de la forme du gouvernement qui est presentement établi dans chaque Etat de l'Europe, est très-necessaire à un Negociateur, il n'est pas de sa prudence d'attendre à s'instruire de celle de chaque pays où on l'envoye à mesure qu'il y arrive;

¹ Wicquefort, op. cit., pp. 50-2.

² Callières, *De la manière de négocier avec les Souverains*, ch. v.

³ *Ibid.*, pp. 49-50.

c'est voyager dans les terres inconnuës & s'exposer à s'y égarer Il y a des differences très-essentiellles entre l'autorité d'un Roi, & celle d'un autre Roi, quoiqu'il n'y en ait aucune dans le nom de leur dignité, il y a des pays où il ne suffit pas d'être d'accord avec le Prince & avec ses Ministres, parce qu'il y a d'autres puissances qui y balancent la sienne, & qui ont le pouvoir d'empêcher l'effet de ses resolutions & de lui en faire prendre de contraires; c'est ce qu'on a vû en Angleterre, où l'autorité du Parlement oblige souvent les Rois à faire la paix ou la guerre, contre leur volonté, & en Pologne où les Diettes generales ont encore un pouvoir plus étendu, & où il ne faut que gagner un seul Nonce de la Diette, & le faire protester contre les resolutions prises par le Roi, par le Senat & par tous les autres Nonces ou députez des Provinces pour empêcher l'effet'.¹

3. *General Qualities of the Diplomatist: Du Choix des Negociateurs*:²

'Pour bien choisir des Negociateurs propres aux emplois qu'on leur destine, il faut avoir égard à leur qualité personnelle, à leur profession, à leur fortune; au Prince ou à l'État vers lequel on les envoie, & à la nature de l'affaire dont on veut les charger.'³

'La sage Republique de Venise est si persuadée de la partialité de ses Prelats et de ses Gens d'Eglise pour le Saint Siege, qu'elle ne se contente pas de ne les point employer à l'Ambassade de Rome, mais elle les exclut de toutes ses délibérations qui regardent cette Cour-là, & elle les fait sortir de ses Assemblées lorsqu'il s'agit de quelques affaires Ecclesiastiques . . . Un Cardinal, un Abbé Commendataire & tous les Ecclesiastiques qui n'ont point de charge d'ame y peuvent être employez avec plus de bienséance & avec moins de scrupule pour eux & pour le Prince qui les y emploie. Les Religieux sont quelquefois propres à porter des paroles secretes & importantes par la facilité qu'ils ont de s'introduire auprès des Princes ou de leurs Ministres, sous d'autres pretextes, mais il ne seroit pas de la bienséance de les voir revêtus d'un caractere de Ministre Public.'⁴

¹ Callières, op. cit., pp. 56, 57.

³ *Ibid.*, p. 210.

² *Ibid.*, ch. xxi, pp. 210-22.

⁴ *Ibid.*, pp. 212, 214-15.

‘ Il est important aux Princes & aux Etats Souverains de choisir des sujets agreables aux pays où ils les envoient, il faut pour cela avoir égard à la différence des gouvernemens & des inclinations qui regnent dans chaque pays & sur tout à la Religion qui y domine.’¹

‘ Les gens de grand qualité sont propres aux Ambassades, parce que leurs noms imposent & les font respecter ; mais quelque respect qu’on ait pour leur rang & pour leur naissance, ils ont encore besoin d’un bon entendement, de savoir & d’experience pour bien conduire une negociation importante, & ils sont sujets à se tromper, lorsqu’ils croient comme font plusieurs de cette espece qu’on ne doit rien refuser à leur qualité.’²

‘ Un jeune Negociateur est d’ordinaire présomptueux, vain, leger, & indiscret, & il y a du risque à le charger d’une affaire de consequence, à moins que ce ne soit un sujet d’un merite singulier & dont l’heureux naturel ait prévenu les dons de l’âge et de l’experience.

‘ Un vieillard est chagrin, difficultueux, trouvant à redire à tout, blâmant les plaisirs qu’il ne peut plus prendre, peu propre à s’insinuer dans les bonnes graces d’un Prince & de ses Ministres, & hors d’état d’agir par la lenteur & les incommoditez attachées à la vieillesse.

‘ L’âge mediocre est le plus propre aux negociations, parce qu’on y trouve experience, la discretion & la moderation qui manquent aux jeunes gens, & la vigueur, l’activité & l’agrément, qui abandonnent les vieillards.’³

‘ Un homme de lettres est beaucoup plus propre qu’un homme sans étude à faire un bon Negociateur ; il sait parler & répondre juste sur tout ce qu’on lui dit ; il parle avec connoissance des droits des Souverains, il explique ceux de son Prince, il les appuie par des faits & par des exemples qu’il sait citer bien à propos, pendant qu’un ignorant ne sait alleguer pour toute raison que la volonté ou la puissance de son Maître & les ordres qu’il en a reçûs, qui ne font pas de loi auprès des Princes & des Etats libres & independans, lesquels cedent souvent aux remonstrances judicieuses d’un homme savant & éloquent.

¹ p. 223.

² pp. 227-8.

³ pp. 229-30. Cf. *Le Parfait Ambassadeur*, pp. 331-4.

‘Les Negociateurs ignorans & remplis de la grandeur de leur Maître sont encore sujets à prendre son nom en vain, c’est-à-dire à le citer mal-à-propos dans les choses qui ne regardent point ses intérêts, pour autoriser leurs passions particulieres, au lieu qu’un sage Negociateur évite de compromettre le nom & l’autorité de son Prince, & ne le cite jamais que bien à propos. . . .

‘La science des faits & de l’histoire est une des principales parties de l’habileté d’un Negociateur, parce que les raisons étant souvent problematiques, la plupart des hommes se conduisent par les exemples & se déterminent sur ce qui a été fait en pareil cas.

‘Un Negociateur sans étude est sujet à tomber dans plusieurs inconveniens par l’obscurité & par la mauvaise construction de ses discours & de ses dépêches. Il ne suffit pas de bien penser sur une affaire, il faut savoir expliquer ses pensées correctement, clairement & intelligiblement, & il faut qu’un Ministre ait de la facilité à bien parler en public & à bien écrire, ce qui est très-rare & très-difficile a un homme sans étude.’¹

*Des Qualitez et de la Conduite du Negociateur:*² ‘Ces qualitez sont un esprit attentif & appliqué, qui ne se laisse point distraire par les plaisirs, & par les amusemens frivoles, un sens droit qui conçoive nettement les choses comme elles sont, & qui aille au but par les voyes les plus courtes & les plus naturelles, sans s’égarer à force de raffinement & de vaines subtilitez qui rebuttent d’ordinaire ceux avec qui on traite, de la penetration pour découvrir ce qui se passe dans le cœur des hommes & pour savoir profiter des moindres mouvemens de leurs visages & des autres effets de leurs passions, qui échappent aux plus dissimulez; un esprit fecond en expediens, pour aplanir les difficultez qui se rencontrent à ajuster les intérêts dont on est chargé; de la presence d’esprit pour répondre bien à propos sur les choses impreveuës, & pour se tirer par des réponses judicieuses d’un pas glissant; une humeur égale, & un naturel tranquile & patient, toujours disposé à écouter sans distraction ceux avec qui il traite; un abord toujours ouvert, doux, civil, agreable, des manieres aisées & insinuanes qui contribuent beaucoup à acquérir les inclinations de ceux

¹ Callières, pp. 230-1.

² *Ibid.*, ch. iv, pp. 19-39.

avec qui on traite, au lieu qu'un air grave & froid, & une mine sombre & rude, rebute & cause d'ordinaire de l'aversion.

Il faut sur tout qu'un bon Negociateur ait assez de pouvoir sur lui-même pour resister à la demangeaison de parler avane que de s'être bien consulté sur ce qu'il a à dire, qu'il ne se pique pas de répondre sur le champ & sans préméditation aux propositions qu'on lui fait, & qu'il prenne garde de tomber dans le défaut d'un fameux Ambassadeur étranger de notre tems, qui étoit si vif dans la dispute, que lorsqu'on l'échauffoit en le contre-disant, il reveloit souvent des secrets d'importance pour soutenir son opinion.

'Il ne faut pas aussi qu'il donne dans le défaut opposé de certains esprits mysterieux, qui font des secrets de rien, & qui érigent en affaires d'importance de pures bagatelles; c'est une marque de petitesse d'esprit de ne savoir pas discerner les choses de consequence d'avec celles qui ne le sont pas, & c'est s'ôter les moyens de découvrir ce qui se passe, & d'acquiescer aucune part à la confiance de ceux avec qui on est en commerce, lorsqu'on a avec eux une continuelle reserve.'¹

'Un habile Negociateur ne laisse pas penetrer son secret avant le temps propre; mais il faut qu'il sache cacher cette retenue à ceux avec qui il traite. . . Il ne suffit pas pour former un bon Negociateur, qu'il ait toutes les lumieres, toute la dexterité & les autres belles qualitez de l'esprit: il faut qu'il ait encore celles qui dépendent des sentimens du cœur, il n'y a point d'emploi qui demande plus d'élevation & plus de noblesse dans les manieres d'agir.

'Un Ambassadeur ressemble en quelque maniere à un Comedien, exposé sur le theatre aux yeux du Public pour y jouer de grands rôles.'²

'Pour soutenir la dignité attachée à ces emplois, il faut que celui qui en est revêtu, soit liberal & magnifique, mais avec choix & avec dessein; que sa magnificence paroisse dans son train, dans sa livrée & dans le reste de son équipage; que la propreté, l'abondance, & même la délicatesse, regne sur sa table: qu'il donne souvent des fêtes & des divertissemens aux principales personnes de la Cour où il se trouve, & au Prince même, s'il est d'humeur à y prendre part, qu'il tâche entrer

¹ *Ibid.*, pp. 20-2.

² *Ibid.*, pp. 22, 23.

dans ses parties de divertissemens, mais d'une maniere agreable & sans le contraindre, & qu'il y apporte toûjours un air ouvert, complaisant, honnête & un desir continuel de lui plaire.

' Si l'usage du Pays où il se trouve lui donne un libre commerce avec les Dames ; il ne doit pas negliger de se les rendre favorables en s'attachant à leur plaisir & à se rendre digne de leur estime, le pouvoir de leurs charmes s'étend souvent jusqu'à contribuer aux resolutions les plus importantes d'où dépendent les plus grands évenemens ; mais . . . il doit se souvenir que l'amour est d'ordinaire accompagné de l'indiscretion & de l'imprudence.' ¹

' Il arrive d'ordinaire dans les negociations ce qui arrive dans la guerre, que les espions bien choisis contribuent plus que toutes choses au bon succès des grandes entreprises, il n'y a rien de plus capable de renverser un dessein important qu'un secret éventé bien à propos . . . On appelle un Ambassadeur un honorable Espion.' ²

4. *The Need for Courage and Firmness: Un homme de sang froid :*

(a) *En quels cas un Ambassadeur peut témoigner sa hardiesse & son courage :* ³ ' Il est vray qu'il doit estre pacifique, doux, & debonnaire, pour la Cour où il est envoyé Ambassadeur, mais avec telle prudence, que quand il faut contester sur des affaires qu'il ne peut accorder, il fasse voir qu'il n'est entier & inflexible qu'à cause de sa charge, & non point qu'il soit animé d'aucune sorte de passion . . . S'il se sentoit quelque peu interessé, non en la personne, mais en son office, il doit user de hardiesse, de valeur, & de constance, pour repousser le tort qu'on luy voudroit faire, tant contre le Roy auquel il fait la Cour, que contre les Ambassadeurs des autres Princes concurrents, en les satisfaisant auparavant de son bon zele, & puis soutenir & defendre genereusement l'honneur de sa patrie, ou la dignité de son Roy, iusques à perdre la vie, car en tel cas il ne violera point le Droit-des-gens, mais il sera plutost le defenseur du mesme Droit, d'autant qu'il ne souffre pas seulement qu'on l'offense, mais il empesche que personne n'y preiudicie.' ⁴

¹ Callières, pp. 25-6.

² *Le Parfait Ambassadeur*, p. 394.

³ *Ibid.*, pp. 28-9, 30.

⁴ *Ibid.*, pp. 393-4.

(b) *Of Moderation*:¹ 'I do not here mean that *Moderation*, of which the illustrious Author of the *Reflections*, *Sentences*, and moral *Maxims*, gives so excellent a Character, and of which the wisest have but an Appearance; but of that *Phlegm* and *Coolness*, either study'd or natural, which is so necessary to those who enter upon the Management of publick Affairs. I do not pretend to act the *Philosopher*, and shall content myself with saying, That *Moderation*, whether it be an Effect or a part of *Prudence*, is a Quality, by so much the more requisite to the *Embassador*, as he that does not possess himself, gives a mighty Advantage to him with whom he negotiates. *Julius Mazarin*, being but twenty years of age, had the Address to put the Duke of *Feria*, Governor of *Milan*, into a Passion; and to discover by that Mean his true Sentiments. Those Minds that are compos'd of Salt-peter and Sulphur, which the least Spark sets on fire, are very liable to mar Affairs by their Transports, because it is an easy Matter to excite their Anger, and put them in a Rage, during which they know not what they do.'²

(c) 'La fermeté est encore une qualité très-necessaire à un *Negociateur*, quoique le *droit des gens* le doive mettre en sûreté; il y a cependant diverses occasions où il se trouve en peril, & où il a besoin de son courage pour s'en tirer & pour faciliter le succès de ses negociations; un homme né timide n'est pas capable de bien conduire de grands desseins; il se laisse ébranler facilement dans les accidens imprévûs, la peur peut faire découvrir son secret par les impressions qu'elle fait sur son visage, & par le trouble qu'elle cause dans ses discours. . . . L'irresolution est très-préjudiciable dans la conduite des grandes affaires; il y faut un esprit décisif, qui après avoir balancé les divers inconveniens, sache prendre son parti & le suivre avec fermeté.'³

'Un homme naturellement violent & emporté, est peu propre à bien conduire une grande negociation. . . . Un homme qui se possède & qui est toujours de sang froid, a un grand avantage à traiter avec un homme vif & plein de feu; & on

¹ Wicquefort, bk. i, ch. viii.

² *Ibid.*, pp. 349-50. Moderation is 'the same Virtue under another Name' as Prudence, p. 350.

³ Callières, pp. 31-2, 33.

peut dire qu'ils ne combattent pas avec armes égales. Pour réussir en ces sortes d'emplois, il y faut beaucoup moins parler qu'écouter; il faut du flegme, de la retenue, beaucoup de discretion & une patience à toute épreuve.'¹

'Nous avons eu sur d'autres Nations plus Septentrionales que la nôtre, cette même superiorité dans l'art de negocier, que les Espagnols & les Italiens ont eu sur nous, en quoi il semble que le degré d'intelligence ait suivi dans l'Europe le degré de chaleur des differens climats.'²

5. *Machiavellianism*³ and *Anti-Machiavellianism*: *Prudence and Cunning*: *Ruse and Counter-ruse*:

(a) *Comment un Ambassadeur doit proceder entre l'utile & l'honneste*⁴: 'L'Ambassadeur qui voudra prevenir ces inconveniens, doit soigneusement mesnager le temps, soit à remarquer celuy qu'il doit employer, combien il vaut, & combien il luy oste.'⁵

De la menterie officieuse: [Louis:] 'Je vous diray que j'ay appris que beaucoup de Chefs de guerre, en disant ce qui n'estoit pas, ont garanty leurs armées de force grands

¹ Callières, pp. 40, 42.

² *Ibid.*, p. 43.

³ 'Il faut considerer que Machiavel raisonne en tout comme Politique, c'est-à-dire selon l'Interest d'Etat, qui commande aussi absolument aux Princes que les Princes à leurs sujets.'—Amelot, *Le Prince de Nicolas Machiavel* (1683), Preface.

⁴ *Le Parfait Ambassadeur*, pp. 218–29. Cf. Montaigne, *Essais*, liv. III, c. i, 'De l'Utile et de l'Honneste': 'Personne n'est exempt de dire des fadaïses; le malheur est de les dire curieusement... Le prince, quand une urgente circonstance, et quelque impetueux et inopiné accident du besoin de son estat, luy fait gauchir sa parole et sa foy, ou aultrement le iecte hors de son debvoir ordinaire, doit attribuer cette necessité à un coup de la verge divine: vice n'est ce pas, car il a quitté sa raison à une plus universelle et puissante raison; mais, certes, c'est malheur: de maniere qu'à quelqu'un qui me demandoit, "Quel remede?"—"Nul remede", feis ie, s'il feust veritablement gehenné entre ces deux extremes; *sed videat ne quaeratur latebra periurio*, il le falloit faire; mais s'il le fait sans regret, s'il ne luy greva de le faire, c'est signe que sa conscience est en mauvais termes... Ce sont dangereux exemples, rares et maladifves exceptions à nos regles naturelles; il y fault ceder, mais avecques grande moderation et circonspection: aulcune utilité privee n'est digne pour laquelle nous facions cet effort à nostre conscience; la publicque, bien, lorsqu'elle est tresapparente et tresimportante.'

⁵ *Ibid.*, p. 228.

perils. Plusieurs Senateurs ont par ce moyen appaisé les troubles de leur Republique. Les Docteurs d'Estat conseillent aux Princes, que s'ils veulent tromper un autre, de tromper premierement l'Ambassadeur qu'ils luy envoient. . . . Supposant que les Ambassadeurs sont des instruments animez, il me semble qu'on doit laisser agir en toute liberté, & avec une connoissance certaine de la fin où l'on pretend. Or en ce qui touche la menterie qui se donne par le superieur à l'inférieur, encore qu'il en puisse reüssir quelque mal pour l'affairer il luy sera toutefois plus loisible d'en user, & plus seur pour la conscience; plus loisible, parce que ce n'est pas proprement mentir, & plus seur, entant que comme il peut disposer absolument de l'utilité, il peut aussi estre l'auteur du dommage: mais du moindre au plus grand, il n'est loisible, ny asseuré; & i'estime que c'est une tres-pernicieuse methode de servir, de laquelle l'Ambassadeur & toute autre sorte de Ministre, se doit soigneusement garder, parce qu'il perdrait son credit auprès de son Roy dès l'heure que sa menterie seroit découverte.' [Iule:] 'La seconde façon, qui est de taire le vray, n'est pas si odieuse, car outre qu'il y a moins de peril, on se peut tousiours excuser sur un pretexte d'oubly, ou d'ignorance, & particulièrement quand le Prince ne s'informe pas instamment, & de propos deliberé, de la chose que l'on cele; toutefois si l'Ambassadeur se peut abstenir de l'un & de l'autre, il n'en fera que mieux. Mais lors que l'Ambassadeur rencontrera un heureux succès pour avoir dit ce qui n'estoit pas, ou avoir celé ce qui estoit, on pourra dire qu'il aura fait un bon service au Roy, mais non pas que ce service-là soit bon pour estre allegué dans la pretention d'une recompense: & si l'affaire va mal, peut-estre qu'on luy en imputera la faute, pour avoir celé le veritable: Enfin, puis que la perte est plus evidente que le gain, & que cette diligence est officieuse, & non de devoir, ce seroit une finesse fort extravagante de se vouloir hazarder au peril, sans aucune esperance de gloire. Je soutiens encore, que le plus certain en tout, c'est de rapporter la pure verité au Prince propre, sans laisser son esprit en doute dans le vray-semblable. Dieu, qui est le Prince des Princes, a dit luy mesme, *Qu'il aymoit mieux l'obeyssance que le sacrifice.* L'Ambassadeur est tenu

d'obeyr à l'article de son instruction, qui luy commande de donner advis de tout ce qui se passe, sans rien retenir en son arbitrage, quoy qu'il le iugeast pour le mieux : il suffit à un Ministre de bien accomplir le devoir de sa charge, sans se mesler d'autre chose.¹

' Il faut qu'un Ambassadeur tienne tousiours sa creance en suspens, & qu'il examine iudicieusement l'origine de ses advis pour discerner les bons d'avec les mauvais. Neantmoins il doit en l'apparence essayer à persuader qu'il les croit, & avec telle dexterité, que celui qui seroit venu tout exprès pour le tromper, s'en retourne trompé soy-mesme : & n'y a rien dequoy l'Ambassadeur se doive plus garder que de donner à connoistre qu'il se défie, d'autant que plusieurs qui craignoient d'estre trompez, ont eux-mesmes donné occasion de l'estre. Tybere ne voyoit point de qualité en luy plus estimable que sa naturelle dissimulation qu'il possedoit ; ce fut aussi celle qui luy aida le plus à regner, à ce que dit Tacite.² Bref, de la diversité des affections que l'Ambassadeur reconnoist en divers sujets, & dans la varieté des temps, en les examinant avec un meur iugement, & un esprit éveillé, il doit composer *une regle certaine, & un art pour comprendre le sens des paroles, & penetrer les intentions d'autrui*. Les sciences prindrent ainsi leurs commencemens sur la prudente consideration des choses particulieres, parce que les hommes estans curieux d'en remarquer les ordinaires evenemens, & les incertitudes vindrent enfin à distinguer le necessaire d'avec le fortuit, & de cela composerent une science, une opinion, ou une coniecture : & les Medecins usans de mesme consideration aux maladies particulieres formerent les preceptes de leur art, & les doctrines universelles. Cette admirable figure de Venus que fit Zeuxis fut-elle pas composée de plusieurs traits de differents visages ? aussi acheva-t'il un ouvrage qui sembloit surmonter la Nature ; car il mit au iour une beauté parfaite. De mesme l'Ambassadeur, en voyant beaucoup, & écoutant plusieurs personnes,

¹ *Le Parfait Ambassadeur*, pp. 297-8, 299-301. See, also, *Si l'Ambassadeur peut uzer de menagerie au Prince Estranger : Instructions sur ce point*, pp. 304 sqq. ; *Exemple d'une subtile dexterité de certains Ambassadeurs de Florence : Ruse & contre-ruse*, pp. 315-19 ; also pp. 239 sqq.

² ' Tacite, auteur recommandable, auquel se trouve tout ce qui est necessaire à rendre un Prince fort expérimenté.'—*Ibid.*, p. 242.

considerant tout, & ne croyant rien, mais donnant une impression qu'il croit, il trouve le vray, & n'est iamais surpris : car d'attendre le succès des choses pour en tirer de l'instruction, c'est tout le mal-heur de l'Ambassade ; & à ce que dit Quintus Fabius, *Le succès est le maistre des sots, qui ne reconnoissent iamais qu'ils sont trompez que quand ils le voyent avec les yeux, & qu'ils le touchent avec les mains.*¹

(b) *Of Prudence and Cunning* :² 'I have said that the Ambassador in receiving his Prince's Orders, ought to consult his Prudence before he executes them. I shall add in this, that it ought to serve him for a North Pole in the whole course of his Negotiation. It is she alone can make it successful, and it is she alone is capable of forming a perfect Ambassador. She holds the first Rank among politick Virtues, and can alone supply all that is wanting in the Ambassador ; so that one may say very well with the Poet, *Nullum numen abest si sit Prudentia*.³ . . . It is a Stroke of the most refin'd Prudence, to make it believ'd that one neglects those Things which one most desires ; that one looks upon them with Indifferency, and that even one has some Aversion for them. If I might be allow'd to make use of the familiar Comparison of the Rowers, who turn their Backs to the Place they design to land at, I think it may be very well apply'd here. Cardinal *Mazarin* help'd himself wonderfully by this Artifice, and he gave an excellent Proof thereof, at the Congress of the Pyrenees.⁴ . . . There is a species of Address, that is rather Roguery than either Cunning or Artifice.⁵ . . . A publick Minister . . . ought to be above those little Cunnings and Duplicities, which are only the Products of a weak and ill turn'd Mind. . . . The Prudence of an Ambassador consists chiefly in knowing how to elude the cunning Strokes of others, and to avoid the Snares that are prepared for him.⁶ . . . Prudence has so vast an Object,

¹ *Ibid.*, pp. 269-70.

² Wicquefort, bk. II, ch. vi, pp. 329-39.

³ *Ibid.*, p. 329.

⁴ p. 331. See the preceding words for the historical illustration.

⁵ p. 333.

⁶ p. 335. 'We take cunning for a sinister, or crooked wisdom ; and certainly there is a great difference between a cunning man and a wise man, not only in point of honesty, but in point of ability. There be that

that one may say it is almost infinite. The Ambassador ought not only to consider that the Principles of Reasoning in Policy are as uncertain as those of the Mathematicks are infallible; but he ought to know also, that the strongest Reasons, and which are in a manner demonstrative, are not always concluding. . . . There are numberless Advices to be given to an Ambassador on the account of Prudence; but I dare be bold to say, that there is no need to give any to a Minister to whom this Virtue is natural, or acquir'd by a long Habit. He forms his Conduct on his own Maxims, and behaves himself as Occasions seem to require.'¹

(c) *Advice for one 'destined for the foreign line'*²: 'It is not an easy matter, in times like these, to write anything on the subject of a Foreign Minister's conduct, that might not be rendered quite inapplicable to the purpose of daily events. Mr. James's best school will be the advantage he will derive from the abilities of his Principal, and from his own observations.

'The first and best advice I can give a young man on entering this career, is *to listen, not to talk*—at least, not more than is necessary to induce others to talk. I have in the course of my life, by endeavouring to follow this method, drawn from my opponents much information, and concealed from them my own views, much more than by the employment of spies or money.

'To be very cautious in *any* country, or at *any* Court, of such as, on your first arrival, appear the most eager to make

can pack the cards, and yet cannot play well; so there are some that are good in canvasses and factions that are otherwise weak men.'—Bacon, *Essays*, 'Of Cunning'.

¹ Wicquefort, p. 338. See, further, bk. i, ch. vii, 'Of the Liberty of Speaking', pp. 339-49.

² 'Letter' of the First Earl of Malmesbury 'to Lord Camden, written at his request on his nephew, Mr. James, being destined for the foreign line', April 11, 1813, *Diaries and Correspondence of James Harris, First Earl of Malmesbury*, iv, pp. 412-15. Counsel of a kind more directly practical is conveyed in *Quelques Conseils à un jeune Voyageur*, par Le Comte d'Hauterive, and in *Instructions de M. de Colbert, écrites de sa main: Mémoire pour mon fils, sur ce qu'il doit observer pendant le voyage qu'il va faire à Rochefort*, for which see Martens, *Guide diplomatique*, edition by Hoffman (1838), i, 2nd part, pp. 393-452.

your acquaintance and communicate their ideas to you. I have ever found their professions insincere, and their intelligence false. They have been the first I have wished to shake off, whenever I have been so imprudent as to give them credit for sincerity. They are either persons who are not considered or respected in their own country, or are put about you to entrap and circumvent you as newly arrived.

‘Englishmen should be most particularly on their guard against such men, for we have none such on our side the water, and are ourselves so little *coming* towards foreigners, that we are astonished and gratified when we find a different treatment from that which strangers experience here; but our reserve and *ill manners* are infinitely less dangerous to the stranger than these premature and hollow civilities.

‘To avoid what is termed abroad an *attachment*. If the other party concerned should happen to be sincere, it absorbs too much time, occupies too much your thoughts; if insincere, it leaves you at the mercy of a profligate, and probably interested character.

‘Never to attempt to export English habits and manners, but to conform as far as possible to those of the country where you reside—to do this even in the most trivial things—to learn to speak their language, and never to sneer at what may strike you as singular and absurd. Nothing goes to conciliate so much, or to amalgamate you more cordially with its inhabitants, as this very easy sacrifice of *your* national prejudices to *theirs*.

‘To keep your cypher and all your official papers under a very secure lock and key; but not to *boast* of your precautions as Mr. Drake did to Méhée de la Touche.

‘Not to allow any opponent to carry away any official document, under the pretext that he wishes “to study it more carefully”; let him read it as often as he wishes, and, if it is necessary, allow him to take minutes of it, but *both in your presence*.

‘Not to be carried away by any real or supposed distinctions from the Sovereign at whose Court you reside, or to imagine, because he may say a few more commonplace sentences to you than to your colleagues, that he entertains a special

personal predilection for you, or is more disposed to favour the views and interests of your Court, than if he did not notice you at all. This is a species of royal stage-trick, often practised, and for which it is right to be prepared.

‘Whenever you receive *discretionary* instructions (that is, when authority is given you), in order to obtain any very desirable end, to decrease your demands or increase your concessions, according as you find the temper and disposition of the Court where you are employed, and to be extremely careful not to let it be supposed that you have any such authority; to make a firm, resolute stand on the first offer you are instructed to make, and, if you find “*this nail will not drive*”, to bring forward your others *most gradually*, and not, either from an apprehension of not succeeding at all, or from an over eagerness to succeed too rapidly, injure essentially the interests of your Court.

‘It is scarce necessary to say that no occasion, no provocation, no anxiety to rebut an unjust accusation, no idea, however tempting, of promoting the object you have in view, can *need*, much less justify, a *falsehood*. Success obtained by one, is a precarious and baseless success. Detection would ruin, not only your own reputation for ever, but deeply wound the honour of your Court. If, as frequently happens, an indiscreet question, which seems to require a distinct answer, is put to you abruptly by an artful Minister, parry it either by treating it as an indiscreet question, or get rid of it by a grave and serious look; but on no account contradict the assertion flatly if it be true, or admit it as true, if false and of a dangerous tendency.

‘In Ministerial conferences, to exert every effort of *memory* to carry away faithfully and correctly what *you hear* (what *you say* in them yourself you will not forget); and in drawing your report, to be most careful it should be faithful and correct. I dwell the more on this (seemingly a useless) hint, because it is a most seducing temptation, and one to which we often give way almost unconsciously, in order to give a better turn to a phrase, or to enhance our skill in negotiation; but we must remember we mislead and deceive our Government by it.’

6. *Miscellaneous Considerations :*

(a) *Qu'un Ambassadeur doit estre sobre, & s'abstenir des mets exquis : Qu'il se devoit abstenir de boire du vin aux banquets :* 'L'Ambassadeur peut bien banqueter aux occasions convenables, comme aussi se trouver aux banquets des autres, mais sur tout, ie luy conseillerois de s'accoustumer à ne point boire de vin, ou pour le moins qu'il s'en abstint en ces rencontres là ; mais s'il y a des incommoditez particulieres qui le requierent, on use aujourd'huy fort communément de certains breuvages composez de simples si admirables, que le vin ne peut pas causer un meilleur effet aux parties necessiteuses de sa vertu. Il y a plusieurs exemples qui nous apprennent que le vin a esté le moyen par où beaucoup d'Ambassadeurs sont perdus, & par qui les ennemis ont beaucoup gagné.'¹

(b) *Whether Clergymen are proper for Embassies :*² 'The Author of the *Idea of the perfect Ambassador*, declares for the affirmative, and backs his Opinion with several Examples taken out of the Bible, and from History. . . . I shall not enquire into the Justness of the Examples ; but I think I may say, he alledges very few that square with his Intention. . . . I cannot conceive how a Bishop, who is able to make himself respected at the Court of a Christian Potentate, can submit to be employ'd in that of *Constantinople*, and that to an Infidel, who ought to be his abomination.'³ . . . Formerly, while Superstition and Ignorance reign'd, the Religious were respected ; but the Habit, and demure Mien, have long since lost their Influence, and the World will be no longer deceived thereby : on the contrary, it is not without scruple, they are at present treated with ; and there is a continual Distrust of their equivocal Meanings, as well as of the Intention of those Princes that employ them. They have not the Quality of Ambassadors, because the Representation would participate of the Ridicule : *But whether they have Letters of Credence, or that they are credited on their bare Word ; if they are negotiated with, tho' they have not the Character of publick Ministers, they nevertheless enjoy the Protection of the Law of Nations :* as

¹ *Le Parfait Ambassadeur*, pp. 388-9.

² Wicquefort, bk. i, ch. ix. Cf. *Le Parfait Ambassadeur*, pp. 54-5, 167-8.

³ *Ibid.*, pp. 57, 63.

on the other side, they cannot be too severely punish'd if they abuse their Habit and Profession, to contrive Treasons and Assassinations; with which one might fill up several Volumes. Father *Joseph*, who assisted Leon Brulard to conclude the Treaty of *Ratisbon*, had no Character.¹

(c) *Si l'Ambassadeur se peut servir de l'entremise des femmes pour le progres de ses affaires* :²

Iule : 'Mais s'il vous plaist, Seigneur Louis, seroit-ce chose licite & digne de la gravité d'un Ministre qui voudroit avoir quelques advis de se servir de l'entremise & de la curiosité de quelques femmes ? car elles ont la reputation de ne pouvoir garder aucun secret.'

Louis : 'Entant que l'action que vous dites fust d'enquerir & de penetrer dans les mouvements de l'esprit du Prince & de ses Ministres, on ne devoit pas blâmer un Ambassadeur qui essayeroit d'y parvenir par tous les moyens licites ; au contraire, celui là commettrait une grande faute qui auroit l'humeur si severe, que de mépriser ces bons effects là, à cause qu'ils procedent de l'entremise de quelques femmes, puis que par leur moyen comme on void en beaucoup d'exemples, on a decouvert les plus grandes coniurations & les plus secretes entreprises qui furent iamais faite.'³

Doute, si les femmes peuvent estre Ambassatrices :⁴

Louis : 'C'est pourtant à ce pointc là que ie voudrois limiter leur entreprise dans les affaires d'Estat, car ie ne consentirois iamais comme vous qu'on leur donnast la dignité de l'Ambassade : & m'estonne beaucoup de ce que *Paschalius* a esté d'advise contraire, veu qu'il a si peu de gens de son party. . . . Et sans doute les larmes d'une fille, & la presence des enfans aux pieds du pere ou de l'ayeul, feront de plus puissants effects que l'Oraison de *Demosthenes* envers *Philapa* : mais ce sera comme fille, & non pas comme Ambassatrice. Car ie vous prie, Seigneur *Iule*, seroit-il bien seant à un Ambassadeur de pleurer ; & ses pleurs pourroient-elles amolir le cœur d'un Prince irrité ?'⁵

¹ Wicquefort, p. 67.

² *Le Parfait Ambassadeur*, p. 282.

³ *Ibid.*, pp. 282-3. *Exemples de plusieurs grands secrets revelez par les femmes*, pp. 283-4.

⁴ *Ibid.*, pp. 286-90.

⁵ *Ibid.*, pp. 286, 289-90. There is one instance of a woman being duly

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The Conduct of Negotiations

De l'utilité des Negociations:¹ 'Pour bien connoître de quelle utilité peuvent être les negociations, il faut considerer que tous les États dont l'Europe est composée, ont entr'eux des liaisons & des commerces necessaires qui font qu'on peut les regarder comme des membres d'une même Republique, & qu'il ne peut presque point arriver de changement considerable en quelques-uns de ses membres qui ne soit capable de troubler le repos de tous les autres. Les démêlez des moindres Souverains jettent d'ordinaire de la division entre les principales Puissances, à cause des divers interêts qu'elles y prennent, & de la protection qu'elles donnent aux partis differens & opposez.² . . . *Le Cardinal de Richelieu* qu'on peut proposer pour modele aux plus grands Politiques, & à qui la France est si redevable, faisoit negocier sans cesse en toute sorte de Pays, & il en a tiré de très-grandes utilitez pour l'Etat, comme il le témoigne lui-même dans son Testament politique.'³

*Observations sur les manieres de negocier*⁴: 'On negocié de vive voix ou par écrit, la premiere maniere est d'un plus grand usage dans les Cours des Princes, la seconde est plus usitée quand on traite avec des Republiques ou dans des assemblées comme sont les Diettes de l'Empire, celles des Suisses, les conférences pour la paix & autres assemblées de Ministres chargez de pleins pouvoirs.

'Il est plus avantageux à un habile Negociateur de negocier de vive voix, parce qu'il a plus d'occasions de découvrir par

invested with the title and the rôle of Ambadress, namely, Renée du Bec, who was appointed by the Regent, Anne of Austria, Ambadress of France on a matrimonial mission to the Court of the King of Poland, Wladislaw IV, in 1645. There are notable instances of women being entrusted with the conduct of negotiations. Thus, Louise of Savoy, in behalf of Francis I of France, and Margaret, of Austria, in behalf of her nephew, the Emperor Charles V, conducted the final negotiations resulting in the Peace of Cambray—'la Paix des Dames'—in 1529; and Henrietta, Duchess of Orleans, conducted negotiations between her brother Charles II and Louis XIV, and concluded the Treaty of Dover, in 1670.

¹ Callières, ch. ii, pp. 8-18.

² *Ibid.*, pp. 8-9.

³ *Ibid.*, p. 12.

⁴ *Ibid.*, ch. xvi, pp. 160-72.

ce moyen les sentimens & les desseins de ceux avec qui il traite, & d'employer sa dexterité à leur en inspirer de conformes à ses vûes par ses insinuations & par la force de ses raisons.'¹

'C'est un des plus grands secrets de l'art de negocier que de savoir, pour ainsi dire, distiller goût à goût dans l'esprit de ceux avec qui on negocie les choses qu'on a intérêt de leur persuader.'²

'Un esprit agreable, net & éclairé, qui a l'art de proposer les plus grandes affaires comme des choses faciles & avantageuses aux parties interessées & qui le sait faire d'une maniere aisée & insinuante, a fait plus de la moitié de son ouvrage, & trouve de grandes facilitez à l'achever.'³

*S'il est utile d'envoyer plusieurs Negociateurs en un meme Pays:*⁴

'Le Cardinal de Richelieu ne se contentoit pas d'employer plusieurs Negociateurs pour une même affaire, il partageoit souvent entr'eux le secret de ses desseins & il faisoit mouvoir divers ressorts pour les faire réussir.

'Outre les Ministres publics qu'il envoyoit dans chaque pays, il y entretenoit encore souvent des Agens secrets & des Pensionnaires du pays même qui l'avertissoient de tout ce qui s'y passoit independamment & sans la participation des Ambassadeurs du Roi, qui ignoroient souvent les Commissions de ces Emissaires, & ils lui rendoient compte de la conduite de ces Ambassadeurs, aussi-bien que de ce qui se passoit dans la Cour où ils étoient; ce qui faisoit que rien n'échappoit à ses lumieres, & qu'il étoit en état de redresser les Ambassadeurs qui manquoient en quelque chose par leur mauvaise conduite ou par défaut de penetration.'⁵

*Des négociations diplomatiques*⁶: 'En principe les gouvernemens seuls négocient, et l'agent diplomatique n'est que l'organe de celui qui l'a nommé. Les *instructions*⁷ qu'il a reçues dirigent sa conduite; il n'a la faculté ni d'accorder, ni de refuser, ni de transiger sans y être autorisé. . . . Sa tâche n'est point circonscrite dans des limites si étroites qu'il ne

¹ Callières, pp. 160-1.

² *Ibid.*, p. 162.

³ *Ibid.*, pp. 167-8. See, further, the next chapter—xvii—'*Avis aux Ambassadeurs et autres Ministres qui negocient dans les pays étrangers.*'

⁴ *Ibid.*, ch. xxiii, pp. 241-6.

⁵ *Ibid.*, p. 246.

⁶ Martens (Charles de), *Le Guide diplomatique*, i, pp. 184-91.

⁷ *Ibid.* ii, pp. 245-65.

puisse s'y mouvoir avec une liberté intelligente ; et, au besoin, pourvu qu'il ait toujours présents à l'esprit les droits et les intérêts de son commettant, il peut prendre sur lui, dans telles circonstances épineuses et imprévues, d'outre-passer la lettre de ses instructions, sachant en apprécier l'esprit. Dans toutes discussions d'ailleurs il y a une part à faire aux choses de forme, aux interprétations, aux moyens : cette part est dans la latitude d'action nécessaire à lui qui doit agir. . . .

'Aucune négociation ne serait conduite à bonne fin si le ministre se laissait décourager en voyant échouer des plans qui n'auraient pas été proposés avec assez de prudence, soutenus avec assez de fermeté, ou dont le succès ne serait pas secondé par les circonstances ; ou s'il prenait trop facilement l'alarme en voyant surgir tout à coup des propositions ou des demandes inattendues : celles-ci, quoique soutenues d'abord avec toutes les apparences d'une détermination invariable, finissent, tôt ou tard, par céder à la dextérité du diplomate qui sait opposer froidement une résistance supérieure à l'attaque.' ¹

'Les lenteurs habituelles des négociations politiques, leurs complications souvent calculées, les insinuations captieuses ou le défaut de franchise inquiètent parfois et fatiguent le négociateur, en mettant à l'épreuve sa fermeté et sa patience. Ces qualités lui sont indispensables, mais il ne faut pas qu'elles s'exagèrent jusqu'à tourner en brusquerie ou en indolence ; le calme et la persévérance ne suffisent pas seuls dans l'art de négocier, non plus que la capacité et l'expérience, les formes aussi contribuent au succès.' ²

'Comme il existe entre les ministres publics accrédités à une même cour un *commerce réciproque d'avis et de nouvelles*, il leur faut nécessairement se prêter à cet échange de confiance ; le plus habile est celui qui en tire le plus d'utilité. C'est au savoir-faire de chacun à former des liaisons qui le mettent à même de recueillir le plus de renseignements utiles et d'apprécier leur authenticité ; à chacun aussi, s'il ne s'agit pas seulement d'avis à donner mais d'insinuations à faire, de ne pas confondre ses sentiments personnels avec ceux que la politique inspire à son souverain.

'Le négociateur ne doit pas perdre de vue que, quelle que

¹ *Ibid.*, pp. 186-7, 187-8.

² *Ibid.*, p. 189.

soit l'intimité qui existe entre deux cours, quelque étroits que soient leurs liens politiques, et même de famille, elles ont des intérêts séparés, souvent même opposés, cause toujours latente de refroidissement possible, et peut-être même de rupture.

'... L'exercice de cet art [de négociier] dépend moins peut-être des qualités personnelles que de la connoissance du monde et de l'expérience des affaires. Les talens naturels doivent être développés par l'étude de l'histoire, et spécialement de l'histoire des négociations diplomatiques ; mais leur absence se remplacerait difficilement par le savoir qui ne serait puisé que dans les livres.'¹

Diplomatic Correspondence : Instructions ; Letters and Dispatches ; Cipher : 'Il [l'Ambassadeur] doit sur toutes choses estre pourveu de lettres de creance, car sans cela, encore qu'il soit accompagné de tous les témoins & de toutes les preuves du monde, un Prince n'est pas obligé, en matiere d'affaires publics, de croire une personne privée, quelque illustre & grande qu'elle puisse estre, exceptant de cette regle l'Ambassadeur à latere, lequel par privilege particulier, est creu par soy-mesme ; tous les autres ont besoin de lettre de creance.'²

'Lettre de Creance du Pape Leon aux Suysses : *Je vous envoie Goro, mon serviteur, dont ie fais grande estime, afin qu'estant en vostre compagnie, il fasse l'office d'Ambassadeur & de mediateur envers vous. Et en cette qualité, vous pourrez adiouter autant de foy & de creance à tout ce qu'il vous dira, que vous feriez à moy-mesme, si i'estois present.*'³

'Les lettres de Creance se presentent ordinairement en la premiere audience.'⁴

'*Comment les instructions doivent estre dressees :* [Louis :] Il n'y a point de reigles precises pour ce regard, les instructions seront comme les luy voudra donner celuy qui en aura la charge du Prince. Je ne vous puis satisfaire autrement sur ce point là ; d'autant que nostre argument ne tend pas à former le Prince en son commandement, mais seulement de figurer

¹ Martens, pp. 190-1.

² *Le Parfait Ambassadeur*, pp. 430-1.

³ *Ibid.*, pp. 433-4. See other specimens, pp. 434-5.

⁴ *Ibid.*, p. 435. 'Si l'Ambassadeur doit parler de ses affaires en la premiere Audience', pp. 444-5. 'Ne seroit-il pas besoin d'avertir nostre Ambassadeur, de prendre garde à ne pas tomber en l'inconvenient d'un qui demanda à boire en la premiere audience ?' p. 445

un parfait Ambassadeur en l'obeissance. Je vous diray toutefois, que l'instruction d'un Ambassadeur est comme une carte de navigation, par laquelle il doit regir & conduire tous ses mouvemens.'¹

'Que l'usage du chiffre est fort necessaire a l'Ambassadeur : Le plus seur chemin pour donner des advis, c'est le chiffre, principalement quand l'on a des choses d'importance à escrire, tant pour la qualité de l'affaire que pour le secret deu à celuy qui donne l'advis, parce qu'on doit tousiours presumer le pire de ce qui peut arriver : Et pour fidelle que soit un courrier, il peut estre devalisé, ses lettres ouvertes, & les affaires decouvertes, si l'usage du chiffre n'en divertit la connoissance. C'est l'unique moyen pour eviter ces dangers-là, & la pratique en est fort ancienne aux lettres des Roys & des Ministres d'Estat. On tient que les Egyptiens en sont les inventeurs, parce qu'ils expliquoient leurs conceptions avec diverses figures & caracteres. Mecenas estoit fort habile en cette science ; Iule Cesar, Caius Opius, Baldus & Cornelius en userent en tous leurs depesches pour les garentir de tous inconveniens : Et depuis ce temps-là, l'usage en a continué iusques à cet heure, si bien que cette science est arrivee au plus haut degré de sa perfection, tant en la partie active, comme en la passive ; puisque l'esprit humain ne scauroit dechiffrer de si difficiles figures, que le mesme esprit n'en invente encore de plus obscures, en faisant que les nombres soyent des lettres, & les lettres des diction : que les noms propres soyent des affaires particulieres ; les animez d'une signification, & les inanimez d'une autre. Outre cela, les Ambassadeurs ont des clefs, desquels si l'on ne connoit les gardes, il est impossible d'entrer dans leurs secrets. Ils usent encore de certains patrons qui decouvrent à ceux qui les connoissent tout ce qui est d'important, & cachent ce qui est superflu ; si bien que celuy qui regardera une lettre, autrement que par cette ialousie, il la treuvera toute pleine d'enigme & de confusion, & si elle est formee par un bon esprit, il sera fort difficile qu'un autre y puisse rien connoistre.'²

¹ *Ibid.*, p. 447. See, further, pp. 447-56.

² *Ibid.*, pp. 467-9. 'Accidents advenus faute de se servir des chiffres', pp. 469-70 ; and pp. 472-3 on instructions in cipher.

Le Secret : 'Le secret est encore expressement recommandé en toutes les actions du Parfait Ambassadeur ; c'est le fondement de l'edifice, le timon du navire, le frein du cheval, & le bon effet de qui se pretend . . . Un habile homme, a tousiours plus d'effet que de parole : celui qui est excessif en langage, est souvent bien sterile aux bonnes œuvres. Enfin, le secret est l'ame des affaires, & c'est luy qui empesche l'ennemy de se pourvoir contre les accidents. L'Ambassadeur qui n'est pas en estime de garder le secret, n'est guere adverty des choses d'importance ; les espions ne s'y osent fier, car la creance qu'ils prennent d'un homme qui ne revele iamais rien, les obligent davantage que le profit qu'ils en peuvent retirer . . . La Republique de Venise a tousiours merité une glorieuse louange en ce point particulier.'¹

*Of Instructions*² : 'It is commonly said, that it is sufficient to send an able Man, and let him act as he shall think fit. However, I don't believe that they who speak this pretend by it that an *Embassador* ought to go upon his Commission, without *Instructions*. It is requisite, and even necessary, he should know his Master's Intention, and be inform'd of his Will, in reference to the Affairs he is to negotiate ; and all that ought to be expected from him, is, that the Prince should rely on the ability of the Ambassador for the Management and Execution thereof. . . . I am willing to believe, that excepting the essential Particulars, which make the Subject of the Embassy, the most general *Instructions* are the best, to an able Minister. . . . The *Instructions* are a secret Instrument which the Ambassador is not obliged to communicate to the Court where he negotiates. Nay, I dare affirm that he ought not to produce it, without a Necessity, and an express Order.'³ . . . The Publick would be very much oblig'd to him that would give it a Collection of *Instructions*, at least of the most important ones, of which Extracts may be found in History ; and there are some curious Persons that have collected a great many.'⁴

*Of Letters and Dispatches*⁵ ; *Cipher* : 'As to the Quality of Dispatches, the Ambassador must know the Humour of

¹ *Le Parfait Ambassadeur*, pp. 572-3, 574.

² Wicquefort, bk. i, ch. xiv.

³ See historical examples, *ibid.*, p. 109.

⁴ *Ibid.*, pp. 107, 108, 109.

⁵ *Ibid.*, bk. ii, ch. x, pp. 357-64.

the Prince, and that of the first Minister who has the Direction of his Affairs. . . . Cardinal *Mazarin*, who took Delight in letting his Mind take a long Range, and who never tir'd with reasoning, requir'd also that the Embassadors should enlarge upon their Subjects. He often made use of *Silbon's* Pen for his Dispatches, and *Silbon* who pretended to Politicks and Eloquence, seconded very well the Intentions of his Eminence. *D'Avaux* and *Servien* answer'd them perfectly, and might be said to write Volumes rather than Letters.¹ . . . It is not necessary that the Style of the Ambassador should be very polite.² It is sufficient if it is clear and intelligible, so that it is not disfigur'd with Solecisms and Barbarisms.³ . . . One may say that Cypher . . . is a kind of Magick . . . *Rossignol*, who serv'd Cardinal *Richelieu* in this Function, and made his Fortune thereby, was so dextrous and successful in it, that he decypher'd without much Pains all the Letters that were brought him; not only those which were written in a Language he understood, but also those that were written in a Tongue to which he was an utter Stranger, and whereof he had not the least Knowledge. It is no hard matter to invent a Million of new Cyphers, but it is almost impossible to find out one that cannot be unravel'd by those who have a like Genius that way, and a great deal of Use.⁴ During the Wars and Disorders of the League, the *Spaniards* made use of a Cypher which was compos'd of above five hundred Characters; so that there was no body could decypher their Letters. At last, those that were intercepted were sent to *Francis Viette*, a famous Mathematician of those Times: He had never apply'd himself to that kind of Study, and had never so much as heard of those Cyphers which are made use of in Letters; and yet after he had consider'd a little thereon, he found out the Key of them, and decypher'd them easily. The *Spaniards* did not know till two years after, that their Secret was discover'd. . . . As soon as the Tenour of an Affair

¹ *Ibid.*, p. 358.

² i.e. 'polished'.

³ *Ibid.*, p. 359.

⁴ The Assistant Secretary for Foreign Affairs said in the House of Commons, July 31, 1918, that any one who had been behind the scenes in diplomacy knew that a large number of the cipher telegrams were not really very secret, and that foreign policy would not be seriously injured if their contents were published abroad.

is known, and the Court where it is negotiated, there is no Difficulty to find out the Persons whom Dispatches speak of.¹ . . . The Ambassador . . . ought to be very punctual in sending that which comes to his Knowledge; but he ought to distinguish well between the doubtful and the certain, lest mingling the false with the true, the Falseness of the one should destroy the Credit due to the other.'²

*Des Dépêches et de ce qu'il y faut observer*³: 'Les Lettres qu'un Negociateur écrit à son Prince, doivent être exemptes de préambules & d'ornemens vains & inutiles; il doit d'abord entrer en matiere & commencer par lui rendre compte des premieres démarches qu'il a faites en arrivant, & de la maniere dont il a été reçu, & à mesure qu'il s'instruit de l'Etat de la Cour & des affaires du Pays où il se trouve; il doit en faire le recit par ses dépêches, y marquer la situation des esprits de ceux qui y ont le principal credit, & des Ministres avec qui il traite, leurs attachemens, leurs passions, & leurs intérêts, s'étudier à les représenter d'une maniere si claire & si ressemblante, que le Prince ou le Ministre qui reçoit ses dépêches puisse connoître aussi distinctement l'état des choses dont il lui rend compte, que s'il étoit lui-même sur les lieux.

'Tous les Negociateurs de France, tant Ambassadeurs qu'Envoyez, ont presentement l'honneur d'écrire directement au Roi . . .

'Une dépêche qui ne rend compte que des faits, sans entrer dans les motifs, ne peut passer que pour une *Gazette*.'⁴

Des Lettres en Chiffre:⁵ 'Comme le secret est l'ame de la negociation, on a inventé l'art d'écrire avec des caracteres inconnus pour dérober la connoissance de ce qu'on écrit à ceux qui interceptent des Lettres, mais l'industrie des hommes, qui s'est raffinée par la necessité & l'intérêt, a trouvé des regles pour déchiffrer ces Lettres, & pour penetrer par ce moyen dans les Lettres d'autrui. Cependant quoiqu'il y ait des déchiffreurs celebres & qui ont tiré de grandes utilitez de cet art, on peut assurer ici qu'ils ne doivent leur consideration qu'à la negligence de ceux qui donnent de méchans chiffres,

¹ Wicquefort, p. 359.

² *Ibid.*, p. 361.

³ Callières, ch. xix, pp. 190-205.

⁴ *Ibid.*, pp. 190-1, 192.

⁵ *Ibid.*, ch. xx, pp. 206-9.

& à celle des Negociateurs & de leurs Secretaires qui s'en servent mal.

'Après avoir examiné à fond cette matiere & les regles du déchiffrement, on a trouvé qu'une Lettre bien chiffrée & avec un bon chiffre est indechiffable sans trahison, c'est-à-dire à moins qu'on ne trouve moyen de corrompre quelque Secretaire qui donne copie de la clef du chiffre, & on peut sûrement défier tout ce qu'il y a de déchiffreurs en Europe de pouvoir déchiffrer des chiffres d'un très-facile usage, à ceux qui en auront la clef, lorsqu'ils seront faits, comme ils le doivent être sur un modèle general, qu'il est facile de donner, & sur lequel on peut faire un nombre infini de differentes clefs de chiffre indechiffable. On ne parle point de certains chiffres inventez par des Regens de College & faits sur des regles d'Algebre, ou d'Arithmetique, qui sont impraticables à cause de leur trop grande longueur, & de leurs difficultez dans l'execution.'¹

Correspondance diplomatique :² 'Les pièces diplomatiques, qui sont l'expression écrite de ces communications, et dont la forme diffère selon leur importance et leur nature, demeurent ou confidentielles et secrètes toutes les fois que le secret est possible et que leur divulgation pourrait nuire au bien des affaires, ou sont destinées à une publicité plus ou moins complète, selon que les cabinets ont intérêt à y recourir, ou qu'ils se croient dans l'impossibilité de s'y soustraire par suite du droit qu'ont les assemblées délibérantes, dans les gouvernements représentatifs, de demander le dépôt des actes et offices diplomatiques dont la connoissance peut leur servir à contrôler la politique ministérielle.'³

¹ *Ibid.*, pp. 206-8.

² Martens, *Le Guide diplomatique*, ii, pp. 266-524.

³ See foot-note ii, p. 267 : 'La prévision de la production possible des correspondances diplomatiques à la tribune des chambres législatives met l'agent dans la nécessité de se précautionner contre cette publicité intempestive, et de rédiger ses dépêches avec plus de réserve qu'il ne l'eût fait si elles n'eussent été exposées à cette chance. . . . C'est dans ces lettres confidentielles uniquement qu'il peut se livrer avec plus d'abandon, et souvent avec utilité, à des raisonnements sur l'état actuel des affaires, à des opinions conjecturales sur leur dénouement. Le ministre des affaires étrangères, de son côté, est obligé, par le même motif, d'avoir recours au même système et d'entretenir avec ses agents une correspondance confidentielle en dehors de la correspondance officielle.'

‘Indépendamment des *mémoires* spécialement destinés à l'exposition des faits importants et à la discussion des questions que ces faits soulèvent, c'est par des lettres et des *notes* que les agents diplomatiques suivent les affaires qui leur sont confiées. . . . A côté des notes signées, l'usage admet la remise de *notes* dites *verbales* que l'Envoyé s'abstient de signer pour ne point engager sa responsabilité d'une manière définitive, ou lorsqu'il s'agit simplement de rappeler les points essentiels d'une conversation politique sur une question traitée de vive voix.

‘C'est au moyen des écrits dont nous venons de parler que l'agent s'acquitte de ses fonctions officielles auprès de la cour où il réside; quant aux relations qu'il entretient avec le cabinet qui l'y a accrédité, elles ont lieu au moyen de lettres, qualifiées *dépêches*, dans lesquelles il rend compte de toutes ses démarches, et transmet toutes les informations que son zèle et son habileté le mettent à même de recueillir.’¹

‘On donne, en diplomatie, le nom de *mémoires* aux écrits politiques d'une certaine étendue destinés à l'exposition circonstanciée d'affaires qui sont ou qui deviennent l'objet d'une négociation politique, d'événements donnant matière à une justification de conduite ou motivant des mesures dont on énonce le but et la portée, et à la discussion des questions que ces affaires soulèvent. Ce qui distingue les *notes* des *mémoires*, c'est moins encore l'extension de ces dernières pièces que l'absence convenue des formules de courtoisie et des formes consacrées par le cérémonial. On y parle toujours à la troisième personne, et le nom du signataire s'y place, en terminant, à côté de la date, sans autres formalités . . .

‘Les cabinets répondent aux mémoires qui leur sont adressés par des écrits rédigés dans la même forme, et que l'on désigne sous le nom de *contre-mémoires*.’²

‘Les mémoires, auxquels on donne aussi quelquefois le nom de *mémorandum*, et que le vieux langage diplomatique a longtemps appelés *déductions*, sont, selon les circonstances, ou des documents destinés à la publicité, ainsi que les déclarations et les *exposés de motifs*, ou des *notes* confidentielles dont la forme seule diffère des autres notes diplomatiques.

‘Ces documents sont quelquefois rédigés en commun par

¹ Martens, ii, pp. 266-9.

² *Ibid.*, ii, pp. 269-70, 271.

plusieurs des ministres accrédités à la même cour, lorsqu'ils sont chargés de faire au souverain une représentation collective au nom de leurs cabinets respectifs; ou bien encore cette représentation, quoique d'un intérêt commun et ayant le même but, est rédigée et remise par chacun d'eux séparément.

'Les *instructions* qui sont données par les cabinets à leurs représentants à l'étranger, lorsqu'ils se rendent à leur poste, sont le plus habituellement rédigées sous forme de mémoires. Dans ce cas, la pièce est intitulée *Mémoire pour servir d'instructions*.'¹

Of Treaties:² 'He [the Ambassador] ought not to suffer those Words of Form . . . to be compris'd or stifled under general Terms; because this Negligence affords Princes, who adhere rather to the Gloss than to the Text, the Advantage of making thereof an Explanation more conformable to their Interest, than to the Intention of the Ambassador's Master. He ought not neither to suffer an essential Clause, or important Condition, to be made a separate or secret Article; unless it be there expressly said, That such Article shall have the same Force, as if it had been inserted Word for Word in the Treaty.'³

'Il y a plusieurs sortes de Traitez entre les Princes et les Etats Souverains, les principaux sont ceux de paix, de treve, ou de suspension d'armes, d'échange, de cession ou de restitution de places ou de pays contestez ou conquis, de reglemens, de limites, & de dépendances, de ligues tant offensives que deffensives, de garantie, d'alliance par mariage, de commerce, &c.

'Il y a des Traitez qu'on appelle secrets, parce que l'exécution & la publication en demeure quelque temps suspenduë, il y a aussi des Traitez publics, auxquels on joint des articles secrets.

'Il y a des Traitez qu'on appelle *Eventuels*, parce que leur exécution dépend de certains événemens que l'on juge devoir arriver & sans lesquels ces Traitez sont de nul effet.

¹ *Ibid.*, ii, pp. 272-3. See also Satow, *A Guide to Diplomatic Practice*, above, pp. 158-9.

² Wicquefort, bk. II, ch. xii, pp. 371-84. See also ch. xi, 'Of Mediation'.

³ *Ibid.*, p. 380.

‘ Lorsque les Ministres de deux Puissances égales signent un Traité, ils en font dresser deux copies qu’on appelle *un double instrument*, & chacun d’eux nomme son Prince le premier dans celui qu’il garde & y signe à la première place, afin de ne point préjudicier à leur prétention sur les rangs lorsqu’il y a quelque concurrence entr’eux.’¹

¹ Callières, pp. 185-6.

APPENDIX II

I

Effect of telegraphic communications upon the responsibility of diplomatic missions :

(1) *Evidence of Lord Stratford de Redcliffe :*

‘Has it been your experience with regard to the introduction of much more rapid locomotion, and the use of telegrams, that an increase, or a diminution, or that no difference has been made in the responsibility and the difficulties of the position of ambassador?—That, I conceive, is as the case may be.

‘You are aware that arguments have been used of this kind that, with the present facilities of communication, the necessity for diplomatic servants of a high character is diminished; do you agree with that?—By no means; telegraphic communications, whatever may happen hereafter, have not yet operated to the exclusion of Despatches. They are subject, to all appearance, by their very nature, to the risk of conveying erroneous information, or premature instructions, equally involving much responsibility, and sometimes requiring the exercise of a superior judgment. They are, moreover, liable to frequent mistakes in the transmission. Time and practice will probably bring them to greater perfection. Meanwhile, the invention of the electric telegraph does not appear to have superseded the usefulness either of Despatches or of the Ministers who write them.

‘I take it that in former times it was usual that the Despatch was written in such terms in the Foreign Office as left very little discretion to the ambassador in his mode of communication, for the very terms were used which he ought to use himself in communicating with foreign Governments, whereas if the instructions are received only by telegram, a great deal

must be left to the discretion and the tact of the diplomatist ?
—No doubt.

‘ In that way would not telegrams rather require superior agents to interpret and deal with them than inferior ones ?—When an instruction for immediate execution is transmitted to a distant representative abroad, it is more likely, I should think, to be couched in peremptory terms than when prepared in the form of a Despatch. A greater responsibility must, therefore, attach to any departure, however necessary, from the strict apparent intention, and an agent of inferior weight and position might well shrink from the personal hazard of incurring it.’—*Report from the Select Committee on the Diplomatic Service, 1861, p. 168.*

(2) *Evidence of Sir A. Buchanan :*

‘ Has the adoption of telegraphic communications much changed the nature of the relations between the Secretary of State and the foreign missions ?—It reduces, to a great degree, the responsibility of the minister, for he can now ask for instructions instead of doing a thing upon his own responsibility ; but at the same time it very often happens that he cannot get an answer in time, and that the instructions arrive after he has been obliged to act. .

‘ Has the general effect of these telegraphic communications been to weaken the sense of responsibility on the part of the minister ?—I do not think so.

‘ Do you think that the responsibility of these and other means of communication at all affects the question of the necessity of keeping up diplomatic establishments ?—I think not ; inasmuch as you will still require some organ on the spot to communicate verbally with the Foreign Minister.

‘ Do you think that, in some degree, it makes the presence of that organ, and the importance of that organ, less necessary ?—I do not think so. One great use of a minister is to prevent the necessity of written communications, and to be able to communicate with foreign governments verbally.

‘ In the transaction of large and complicated affairs, is not the position of a minister made almost more difficult than it

was before ?—I think not ; I think that upon the whole one gains a great deal by telegrams, though they sometimes cause embarrassment ; telegraphic instructions are very concise, and it may be difficult to understand them exactly ; on other occasions, a minister asks for instructions, and he is obliged to act before they arrive ; but, upon the whole, I think telegrams are useful.’—*Ibid.*, 129–30.

(3) *Evidence of Lord John Russell* (Secretary of State for Foreign Affairs) :

‘With respect to the effect of telegraphs, do you consider that they have diminished the necessity for diplomatic agency ? —No ; of course, one has to think of these matters as there has been a great change ; but they rather seem to me to increase the necessity for diplomatic agency. Formerly, a Minister, such a man as Mr. Canning, considered all the contingencies of a case, and all the arguments that might be used ; and he wrote a long despatch, explaining clearly all those matters, which formed an instruction to the Minister, so that the Minister was obliged to go and speak to a foreign minister ; he had his brief in his hand ; but now he asks a question, or instructions, in a few words ; he is obliged to supply, therefore, a great deal more than a Minister abroad formerly was obliged to supply.’—*Ibid.*, 308.

2

The Publication of Dispatches : ‘ Secret Diplomacy ’ :

(1) *Evidence of Lord Wodehouse* (Under-Secretary of State for Foreign Affairs, formerly Minister, for two years, at St. Petersburg) :

‘I believe that in the papers which have been laid before the House, containing the opinions of different diplomatists abroad, there are one or two who refer to the publication of despatches in this country indiscriminately as rendering it difficult for them to obtain information for fear of the persons on the Continent communicating it becoming compromised ; have you had any experience to that effect ?—There is certainly some reluctance, on the part of foreign diplomatists,

from their knowledge that what they communicate may be published in a Blue Book, but I do not see any mode of obviating this inconvenience. You must publish for the use of Parliament and of the country information on foreign affairs.'—*Ibid.*, 86-7.

(2) *Evidence of the Earl of Clarendon :*

'A great deal has been said about what is called "public" diplomacy, in contradistinction to "secret" diplomacy; do you think it is possible that the transactions between the Government of this country and foreign Governments could be carried on by public despatches?—If by public despatches is meant only those despatches which are in their entirety laid before Parliament, I should say that it would be difficult to carry them on, because I think that there must always be a certain discretion left to the Secretary of State as to what should be laid before Parliament, but that is the only difficulty I see in it; I am perfectly certain there is always laid before Parliament a very fair and complete view of the transactions between this country and any other to which those papers may relate. I know that foreign Governments rather complain of our Blue Books, and to a certain extent they may curtail some of the communications that are made to our foreign Ministers, but I should be extremely sorry to see our system of publication of diplomatic papers in any way curtailed, or different from what it is; of course, there must always be care taken not to compromise individuals for the information they have given, but I believe it is an immense advantage to this country that our despatches and diplomatic transactions should be known, because if they have the approbation of Parliament and of the country, the Government then has the whole weight of public opinion in its favour, and it is that which gives such strength to our policy and to our opinions in foreign countries.

'What I wish to ask you is, whether despatches could be published from day to day as negotiations are going on?—I think that that would be impossible; and in support of that opinion, I may state that at the first meeting of the Congress of Paris, the Plenipotentiaries were all asked not to

make known, except to their respective Governments, that which passed there every day, because if it appeared in newspapers, or became published in any form, so many people would then take part in the negotiations that we should never come to an end; and that might be called secret diplomacy, because certainly the public were not admitted to the discussions of men who held a great variety of opinions, and had very different interests to conciliate; and I think that the admission of the public then would have prevented any final settlement. But there was nothing that passed at the Congress that was not recorded in protocols at the time, and subsequently laid before Parliament.

'... I believe that there are, besides the ordinary despatches which pass between the Secretary of State and Ministers abroad, other despatches upon important subjects, marked "Secret and Confidential" ?—Yes.

'And these are independent of that private correspondence to which you have referred ?—Yes, entirely, and remain in the office.

'Is it your opinion that, in case of information being required by Parliament as to the policy which in any particular case is pursued by the Government, that the publication of the dispatches in the usual manner does give sufficiently satisfactory information to the public as to what is going on ?—No doubt of it. I think from all I have known of Blue Books, with the publication of which I have been concerned, and others which I have read, that they give a complete and honest view of the transactions to which they refer.

'Are despatches marked "secret and confidential" generally not intended to be published ?—No; not those that are received at the Foreign Office.

'Is not that security enough for a foreign Government, and a reason why they should not be unwilling to communicate information, when it is said that they are "secret and confidential" ?—Yes, certainly it would be security enough: but then there are other matters sent home in despatches which are not marked "secret and confidential", which they nevertheless dislike the publication of.

'But the fact of "secret and confidential" being marked

upon a despatch does not positively preclude the Government from giving it publicity ?—Certainly not.’—*Ibid.*, 110–11, 113.

(3) *Evidence of Lord Stratford de Redcliffe :*

‘With regard to communications between the Foreign Minister and the head of a mission, do you think that any advantage has resulted from the largely increased habit of writing private letters ?—The practice of private correspondence, I think, is one upon which it would hardly answer any good purpose to lay restriction. Upon the whole, I think that more advantage results from the use of private correspondence than the contrary ; but the practice may be carried too far.

‘In a certain degree, must not a very continual private correspondence detract something from the influence of the public documentary correspondence ?—Not, if it be carried on in the right spirit. I conceive that the use of private correspondence is to afford a clearer view of the scope and intent of the official instruction, and to convey suggestions, or matters of information, without being committed to the formalities of the official correspondence, and to the publicity which frequently attends it ; but anything which has the effect of contradicting in private what is made matter of instruction in the public correspondence, or anything that produces an action in public affairs, of which there is no trace in the public correspondence, is open to objection, as it is liable to abuse.

‘Have you found yourself annoyed or restricted in your correspondence with the Secretary of State by the circumstance of most of the important despatches being from time to time laid before Parliament ?—I do not remember at this moment to have experienced any annoyance from it myself ; but there are, doubtless, occasions where the public interests might be compromised by indiscriminate publication. There have been cases where I should have wished a Despatch to be published, and others where I should have deprecated its publication. It would be difficult to lay down any precise rule for such matters.

‘Have you ever had cause to complain of communications,

which you regarded as of a private nature, having been laid before Parliament?—No; I do not remember any instance respecting myself; but I must say that I hold it to be a most unfair thing, and one of which I should have thought myself entitled to complain, if any letter of mine marked "private", and written in the usual form of private personal correspondence, had been laid before the public without my express consent. I have always understood that private letters of this kind are as correspondence between individuals, although relating to public subjects.

'When you have headed a Despatch "Private and Confidential", have you thereby intended that that Despatch should not go beyond the Secretary of State himself?—Letters marked "Private and Confidential", written in regular form on large paper, are usually considered as part of the public correspondence, subject, as to publicity, to the discretion of the Secretary of State.

'You draw, then, a clear distinction between Despatches you must consider of a reserved character, and the private correspondence between individuals?—Decidedly; it was to the latter class of private correspondence that my remarks were addressed; but I submit that the public in fairness has nothing to do with them. The Foreign Office might be moved by Parliament to put an end to such correspondence; but that is a different point; as long as there is no intervention of the kind, I consider the correspondence in question as being between two individuals, and, in honour, not to be communicated beyond the writer's intention.'—*Ibid.*, 167–8.

(4) *Evidence of Lord Cowley :*

'You have held the post of Ambassador at Paris under several different English Ministers of different complexions, and you have carried on, I believe, a great deal of your business by private correspondence with all of them?—A great deal.

'Have you found any difficulties arise from a change of Ministry, in consequence of losing the thread of the private correspondence?—No, certainly not.

'Are you prepared to state that the mode of communication by private correspondence is not contrary to or inconsistent

with the public despatches?—Certainly it is not, and it would be impossible to carry on the business between Paris and London without a great deal of private correspondence.

‘I believe that it disappears from the office with the Minister?—Yes.

‘But it is so managed, that what is important is embodied in a public dispatch.—Always.

‘Therefore, the objection to what is called secret diplomacy you do not think holds good?—There is no secret diplomacy, properly so called.

‘As to the publication of despatches, have you ever found yourself inconvenienced by the publication of your despatches?—No, I cannot say that I have.

‘Do you think that it creates any difficulty as to obtaining information?—Yes; perhaps not so much in Paris, but in Germany, I think, that it must constantly interfere with our obtaining information, and with that confidence which a foreign minister would be ready to repose in an English diplomatist if he was certain that it would not be made use of publicly.

‘Is there any difference made as to publishing your despatches if you state them to be confidential, or should you consider yourself ill-used if they were published in such a case?—No, everything in the form of a despatch I consider to be open to publication.’—*Ibid.*, 232–3.

(5) *Evidence of Lord John Russell* (Foreign Office) :

‘Questions have been raised here with reference to the conduct of business by private correspondence; I presume you find that necessary as your predecessors did?—Yes, I do.

‘Do you, however, agree with them in stating that there is no private correspondence carried on, of which there is not a sufficient record left in despatches in the office?—If a matter comes to be a subject of public argument, there is sure to be some record of it in the office; but, of course, there are things, I should say a number of things, upon which there is some hint or suggestion thrown out either abroad or here, and the suggestion comes to nothing, and then it does not lead to public despatches.

'But if you apply the observation to what has been termed out of doors secret diplomacy, do you agree with your predecessors in denying that there is any such carried on?—There is none such carried on; anything that is agreed upon is a matter of public despatch.

'And so is put on record in the office?—Yes.'—*Ibid.*, 307–8.

3

The Marquess Wellesley on the Spanish Supreme Central Junta, 1809:¹

'The constitution of the Supreme Spanish Junta is not founded on any well-understood system of union among the provinces, and still less on any just or wise distribution of the elements or powers of government; the confederacy of the provinces still exists; the executive power is weakened and dispersed in the hands of an Assembly too numerous for unity of council or promptitude of action, and too contracted for the purpose of representing the body of the Spanish Nation. The Supreme Central Junta is neither an adequate representative of the Crown, nor of the aristocracy, nor of the people; nor does it comprize any useful quality either of an executive council or of a deliberative assembly, while it combines many defects which tend to disturb both deliberation and action.

'Whether this Government, so ill-informed, be deficient in sincerity to the cause of Spain and of the Allies, is certainly questionable: whatever jealousy exists against the British Government or the Allies, is principally to be found in this body, its officers, or adherents; in the people no such unworthy sentiment can be traced. But, omitting all questions respecting the disposition of the Junta, it is evident that it does not possess any spirit of energy or activity, any degree of authority or strength; that it is unsupported by popular attachment or goodwill, while its strange and anomalous constitution unites the contradictory inconveniences of every known form of government, without possessing the advantage of any.

'It is not an instrument of sufficient power to accomplish

¹ See above, p. 52, foot-note.

the purposes for which it was formed ; nor can it ever acquire sufficient force or influence to bring into action the resources of the country and the spirit of the people with that degree of vigour and alacrity which might give effect to foreign alliances, and might repel a powerful Invader.

‘ This is the true cause at least of the continuance of that state of weakness, confusion, and disorder, of which the British Army has recently experienced the consequences in the internal administration of Spain, and especially of her military affairs.

‘ . . . The original powers delegated to the Junta have not been clearly defined, either with relation to time or authority.’
—*Marquess Wellesley to the Right Hon. George Canning*: Seville, 15th September 1809.—*Papers relating to Spain and Portugal, ordered by the House of Commons to be printed*, 19th March 1810, p. 87.

Compare: . . . ‘ Spain, where the disposition to rely upon every thing rather than its own exertions is unfortunately so strongly marked in all the proceedings of the Supreme Junta.’

Canning to Wellesley: Foreign Office, 12th August 1809.—*House of Commons Papers*, 24th May 1810, p. 27.

See also *Despatches and Correspondence of the Marquess of Wellesley during his Lordship's Mission to Spain as Ambassador Extraordinary to the Supreme Junta in 1809*, ed. by Martin (1838), pp. 119–35, and p. 192. The version of Wellesley's dispatch in the House of Commons Papers is that which has been followed in the extract given above.

4

Mr. Gladstone on the Treaty-making Power: the Cession of Heligoland:

Mr. Gladstone in the House of Commons, July 24, 1890, following Sir J. Fergusson, Under-Secretary of State for Foreign Affairs, who had moved the second reading of the Anglo-German Agreement Bill:

‘ . . . He [Sir J. Fergusson] said, towards the close of his speech, that the House was asked to accede to the cession of Heligoland. That is perfectly true in point of form. It

might be said, if we looked at it from the outside only, that this is only an affair of parochial legislation, because the population of Heligoland, I think, is not equal to the average population of any of the 10,000 parishes of England. But, Sir, I wish to point out that, although the vote of the House is only to be taken upon the Agreement as to Heligoland in point of form, yet in point of substance the vote of the House is upon the entire Treaty. Now, upon that there can be no question whatever that the whole treaty-making power of the Crown is thrown into the hands of the House in respect not only to Heligoland, but to all the conditions relating to the South African portion of the Agreement, although upon the form of proceeding there is no indication whatever to that effect.

‘ . . . The question of the Treaty-making power is undoubtedly one of the most difficult questions of practical politics in the world. The proof of that is to be found in the history of the Constitution of the United States. The able and sagacious men who considered this question there, arrived at a solution of the difficulty by adopting a compromise. They gave the power of intervention to the Senate of the United States; they did not give it to the popularly elected body, and that body has nothing whatever to say to a Treaty concluded with a Foreign Power, and it has no power of interfering with the conditions of that Treaty either directly or indirectly by censuring or punishing those who have made it. No one doubts, Sir, that this power of Treaty-making lies in this country with the Crown, subject to certain exceptions, which, I believe, are perfectly well understood. Wherever money is involved, wherever a pecuniary burden on the State is involved in any shape, I say, it is perfectly well understood, and I believe it is as well known to Foreign Powers as to ourselves, that the Government is absolutely powerless without the consent of Parliament, and that that assent, if given, is an absolutely indispensable assent, upon which the Crown has no claim whatever, presumptive or otherwise. I believe it to be also a principle—and I speak subject to correction—that where personal rights and liberties are involved they cannot be, at any rate, directly affected by the prerogative of

the Crown, but the assent of Parliament, the popularly elected body to a representative chamber, is necessary to constitute a valid treaty in regard to them. But, Sir, setting aside these cases which are well defined, both in principle and in practice, there remains a vast range over which this Treaty power extends. . . . There is one thing which I think is still higher than the dicta of legal authorities in this important question, and it is our long, uniform, and unbroken course of practice. It is one thing to stand upon the opinion of an ingenious or even a learned man ; it is another thing to cite the authority of an entire State, signified in practical conclusions, after debate and discussion in every possible form, all bearing in one direction and stamped with one and the same character. . . . Do not let it be supposed that I am in favour of action outside Parliament. . . . It is hardly an exaggeration to say that in scores of cases cession has taken place, and in all cases the practice has been uniform for the Ministers of the Crown to advise upon their responsibility, for the Crown to act, and for Parliament to accept the results. . . . If the House of Commons does not approve of a Treaty which has been entered into it can, of course, turn out the Government of the day. . . . The effect of the present system, therefore, be it theoretically good or theoretically bad, places in the House of Commons the supreme control over the Treaty-making power of the Crown. Is that to be the case after the Treaty-making power has come to be handled by this Bill ? It seems to me almost a necessity that out of this proceeding some complications of weight and importance must grow, deeply affecting the relations of the Crown and Parliament and the administration of political power. Speaking roughly, as the matter now stands, we have, virtually, the whole control. The other branch of the Legislature—the House of Lords—cannot turn out a Government. We, if we have votes enough, can. But will that be so after this ? No. That which we now have exclusively you invite us to halve with the other branch of the Legislature. Now, I have said I do not wish to make this a Party dispute, and, therefore, I do not want hon. Gentlemen opposite to listen to this, which I offer rather as consideration to Members on this side, who have a natural tendency to say, the more you

take from the Crown and give to Parliament the better. That is a presumption in the Liberal mind ; it may be sound, it may be right ; I do not discuss it. But I must point out that what is now proposed is to take a power which we now possess, in a form theoretically irregular, but practically effective—to take this power out of our hands and divide it with another Assembly. . . . Such a change ought not to be made *sub silentio*. . . . I do not see any good cause for touching the Treaty-making power at the present moment.’—*Hansard, Parliamentary Debates* (1890), cccxlvii. 753, 761, 764, 765, 766, 767, 768.

5

Opinions of British Foreign Secretaries on publicity and responsibility in the conduct of foreign policy :

(1) *Lord Palmerston*, February 25, 1864 :

‘ Her Majesty’s Government are responsible to this House to give every information as to any communications which may take place with foreign Governments with regard to our foreign policy, but it is not our duty to state to this House what changes may have been made, or intended to be made, from time to time before or after a despatch may have been communicated to any of our Ministers abroad.’—*Hansard, Third Series*, clxxiii. 1103.

(2) *The Earl of Clarendon*, May 8, 1866 :

‘ Of course, we have always been ready to answer any inquiry that might have been addressed to us. . . . There is now little of that secret diplomacy which in former days so much prevailed. There is on the part of every Government—such is the power of public opinion—so great an anxiety to appeal to it and obtain its support, that despatches of the most important character and entailing the gravest consequences are no sooner delivered than they are published ; and the telegram secures that there shall be no priority of information.’

(3) *The Marquess of Salisbury*, June 30, 1890, in reply to the Earl of Rosebery who had asked, whether it was true, as reported in a recent telegram, that the right of fortifying the island of Heligoland was to be subjected to restrictions :

‘ . . . I think the noble Earl is aware that it [the question] answers itself—of course, we have never suggested any limitation to the power of the German Government to fortify the island if they please. I quite recognise that the noble Earl and his friends have acted with great consideration in reference to all these affairs, and I am also willing to concede that full information is due to them ; but I think it is a rule that has always been observed in the Foreign Office, and a very valuable rule, that discussions should not take place until negotiations of this kind are concluded. We thought it desirable to issue a Despatch for the purpose of stating what our general intentions were ; because such matters as these become subjects of discussion and of public comment, and strange and distorted accounts of them are apt to get before the public eye. . . .

‘ *The Earl of Rosebery* : Would the noble Marquess object to state what the means were which he took to ascertain the feelings of the population ?

‘ *The Marquess of Salisbury* : Obviously they were means of a confidential character, and, therefore, it is not possible for me to discuss them.

‘ *Earl Granville* : Confidential with the population, does the noble Marquess mean ? ’—*Ibid.*, cccxvi. 305, 307.

[Lord Salisbury, when in Opposition, spoke as follows in the House of Lords on May 12, 1885, with reference to Earl Granville’s assertion of the great danger of public criticism of negotiations while they were still in progress between Russia and Britain with regard to Afghanistan : ‘ The noble Earl seemed to me to lay down a doctrine which we cannot pass unnoticed, when he says it is the duty of an Opposition not to canvass or condemn the conduct of the Government, if by so doing it should have the effect of discouraging friends and allies in other parts of the world. That seems to be a very far-reaching doctrine, and one which it is impossible to assent to. The noble Earl must remember that if we are of opinion that the course of public affairs is going ill, and that our Government has mismanaged, that faults are being committed and dangers are being incurred, we have no absolute Sovereign to whom we can appeal in order to correct the evil ; our absolute Sovereign is the people of this country, and it is

they, and they alone, who can bring a remedy to the mischief which is going on. You have a form of Government which in many points is purely democratic, and you must take it with the incidents which naturally adhere to it, and one of these incidents is publicity of deliberation. The Cabinet is the authority which decides in the first instance, and it decides in secret, and it rightly maintains its secrecy to the utmost, but the authority to which you must appeal from the Cabinet is the people, and their deliberations are conducted in the open field. If they are to be rightly informed, you must deal fully and frankly with the subjects which form the basis of their determination. It is, no doubt, a drawback so far as it goes, but it is a drawback you must face, and you cannot help it if Foreign Powers overhear, so to speak, the privileged communications between you and those by whose verdict you must stand. You cannot suppress the argument because somebody else outside hears it and you may be adversely affected by it. You might as well say that you will allow a trial to go wrong, because counsel hesitated to tell the jury the whole truth as it appeared to him, lest some one outside should be offended or discouraged by the language used.']

(4) *Mr. A. J. Balfour*, speaking, March 19, 1918, on the motion 'That, in the opinion of this House, a Standing Committee of Foreign Affairs should be appointed, representative of all parties and groups in the House, in order that a regular channel of communication may be established between the Foreign Secretary and the House of Commons, which will afford him frequent opportunities of giving information on questions of Foreign policy and which, by allowing Members to acquaint themselves more fully with current international problems, will enable this House to exercise closer supervision over the general conduct of Foreign affairs':

'He'—the speaker immediately preceding—'endeavoured to regard . . . the conduct of our foreign affairs as a practical question for practical men, to be dealt with, not according to abstract formulæ, but according to the real necessities of the situation. . . . What is the business of the Foreign Office of this country and of every other country in its aspect of an international machine? It does not pursue strange and

secret aims. I think the British world perfectly understands and would thoroughly describe the broad ends for which British diplomacy works. Questions are perpetually arising, sometimes large, sometimes small, ranging perhaps on the one side from some great boundary question between two great Empires to the gas lighting of Bangkok on the other. All these questions have to be dealt with by some Department. The objects which the Government have in view in dealing with them are quite simple, quite plain, and are known to all the world. What is not simple, what is not plain, what is not easy, is the actual day-to-day carrying out of the negotiations by which the end is to be attained. A Foreign Office and a Diplomatic Service are great instruments for preventing, as far as can be prevented, and diminishing, even when you cannot prevent, friction between States which are, or which ought to be, friendly. How is the task of peace-maker—because that is largely the task which falls to diplomatists and to the Foreign Office, which controls diplomatists—to be pursued if you are to shout your grievances from the housetop whenever they occur? The only result is that you embitter public feeling, that the differences between the two States suddenly attain a magnitude they ought never to be allowed to approach, that the newspapers of the two countries agitate themselves, that the Parliaments of the two countries have their passions set on fire, and great crises arise, which may end, have ended sometimes, in international catastrophes. . . . You have to consider, when you are perfecting your Parliamentary machinery, which, in the main, is your machinery of criticism, whether you are not weakening your machinery for action. This House is not an executive body, cannot be an executive body, and if it tried to be an executive body would do its work altogether abominably. The 670 Gentlemen could not do it, and no delegation to Committee Rooms of forty or fifty could do it. That is not the way the work of the world is done anywhere if it is done effectively. No house of business manages its affairs in that way; no Army and no Navy manages its affairs in that way. Those who aspire to that ideal of popular machinery and call it democratic confuse administration with criticism and legislation. Administration

is one thing; criticism and legislation are another. You should have your control over those who manage your affairs, but it is not the kind of control which the hon. Member wishes to set up with his Committee of forty or fifty. It is quite a different control. You must know, broadly speaking, what the general lines of policy are, and I maintain that that is thoroughly known with regard to foreign affairs at this moment by every man in this House who takes the trouble to think. The general lines on which we are proceeding are thoroughly known. If the House, or any large body of the House thinks we are proceeding on wrong lines, turn us out—that is the proper remedy—but do not suppose that we can do the work better by having to explain it to a lot of people who are not responsible. That is not the way to get business properly done.¹ . . . If you are going to ask Foreign Office officials, or officials of any Department, to expend some of their energy in getting ready for cross-examination, you will really be destroying the public service. There is nothing on which I feel more strongly than that. They are not accustomed to it, and they ought not to be accustomed to it. They are not trained for it, and they ought not to be trained for it. . . . I beg the House to remember that any system which keeps

¹ Mr. Balfour gave evidence on these lines before the Select Committee on House of Commons Procedure, 1914: *e.g.* '1707. On the whole, you would be inclined to think foreign affairs is a question which should not be aired too frequently in the House of Commons?—That is my opinion. I think neither Indian affairs nor foreign affairs are very fitting subjects for constant discussion and debate. Indiscreet speeches, the value of which we can perfectly weigh within the House, get reported and circulated abroad, or in India, or even at home in the provinces, and very often make bad blood quite unnecessarily, and raise difficulties which might easily have been avoided.

'1708. Then, you do not think the uninformed condition of the House of Commons on foreign affairs matters?—I am not disposed to agree that the position of the House of Commons is uninformed. It does not know, and it cannot know, and, if I may say so, it ought not to know exactly what passed between the Foreign Secretary and the Ambassador of this or that Great Power in such a conversation on such and such a day. Such conversation must be confidential if you are to work the European system at all, and I do not think that it would be any gain to the peace of the world or our own national interests, if 670 prying eyes were perpetually directed towards these current details of international obligations.'

constantly before the eyes of the civil servants of this country the fear of examination, cross-examination, and re-examination by gentlemen who may be described as professional politicians, would be most disastrous in the public interest. Therefore . . . I read the Resolution with very little sympathy. I do not believe it is democratic. I do not believe it is practicable. I believe the evils against which it is directed are largely illusory evils. I do not hold the view that antique methods are pursued by diplomatists which no man of common sense adopts in the ordinary work of everyday life. On the contrary, the work of diplomacy is exactly the work which is done every day between two great firms, for instance, which have business relations, or between two great corporate entities which have interests diverging or interests in common. If you are a man of sense you do not create difficulties to begin with. You try to get over all these things without the embitterment which advertisement always brings with it. It is when you begin to press your case in public that antagonism arises. In private, in conversations which need not go beyond the walls of the room in which you are, you can put your case as strongly as you like, and the gentleman with whom you are carrying on the discussion may put his case as strongly as he likes, and if good manners are observed and nothing but fair discussion takes place no soreness remains and no one is driven to ignore the strong points of his opponent's case. Directly a controversy becomes public all that fair give-and-take becomes either difficult or impossible, and if secret diplomacy meant anything so idiotic as an attempt to discuss in public matters in which sentiment, international pride, and international interests were profoundly concerned, I do not think that any sane assembly would ever really try to carry it out in the day-to-day national work which has to be got through. But if all you mean . . . is that it is wrong for the nations of the world to find themselves hampered in their mutual relations by treaties of which those countries know nothing, that, I think, is an evil. I do not say that there have not been secret treaties which were inevitable; but I do say that, if they are necessary, they are a necessary evil. Please remember that two nations make a treaty together for their

mutual advantage. Both are desirous of passing it. One nation says, "It is against our interest that this treaty should be made public at present". The other says, "We do not like being committed to any treaty the terms of which we cannot make public at once". Which is going to prevail? Hon. Gentlemen talk as if it rested with the British Foreign Office to decide in every case whether a particular treaty shall be treated publicly or confidentially. It does not rest with any single Foreign Office, British or other. It is always an arrangement between two, possibly three or four, Foreign Offices. You cannot lay down, and I do not think you would be wise to lay down, an absolute rule that under no circumstances, and for no object, could you so far concede the point as to say that a treaty is to be made which is not to become public property. I am perfectly ready to admit that that is not a process which, to me, is a very agreeable one. To reduce secret treaties to the narrowest possible limits should, I think, be the object of every responsible statesman who has the control of foreign affairs. Beyond that I do not feel inclined to go. I do not see any signs of a grasp of the true realities of life in the Motion before us. I do not stand here to defend ancient forms and worn-out ceremonies. I stand here to defend the common-sense carrying out of great international objects, and those objects, so far as this country is concerned, are, first, to obtain peace, and then to maintain peace. I do not see that there can be, or ought to be, any collision between the Government and any section of this House upon the general aims of British policy; still less can I see anything in our system that can be described as antagonistic, inconsistent with or opposed to the true principles of democracy, interpreted in the light of the actual facts of national life as we see them before us. I, therefore, shall resist the Motion.'—*Parliamentary Debates*, House of Commons, Tuesday, 19th March, 1918, Vol. 104, 865, 867-8, 872-6.

The Treatment of International Questions by Parliaments in France, Germany, and the United States of America :

I. France :

‘According to the French constitution, the President of the Republic negotiates and ratifies treaties with foreign Powers. These treaties are then to be communicated to the Senate and the Chamber of Deputies as soon as is compatible with due regard to the interests and security of the State. Treaties of peace and commerce, and those which affect the finances of the State, the status of persons and the rights of property of French citizens abroad, are only binding after they have been approved by a vote in the two Houses. No cession, exchange, or acquisition of territory may take place without a law be passed to authorise it.

‘It may here be remarked that the Treaty of Berlin of the 13th July, 1878, was ratified by the President of the Republic, and promulgated without the approval of Parliament being asked, presumably because it was not considered as falling within any of the above-mentioned categories of treaties.

‘The Chamber of Deputies appoints sixteen grand committees at the beginning of each fresh Legislature, to examine and report on questions concerning the various departments of the State with which the House is called upon to deal. One of these committees is “La Commission des Affaires extérieures et coloniales”. It is elected for the whole legislative period (four years), and composed of forty-four members, designated by the various political groups in proportion to their numerical strength. This choice has to be confirmed by the Chamber at a public sitting. The committee does not examine the Budget for Foreign Affairs, as the yearly credits for that department are discussed by the General Budget Committee (“Commission du Budget”). The Foreign Affairs Committee reports to the Chamber on all questions relating to foreign policy which are submitted to it. It may summon before it any persons whose evidence may be of a nature to guide it in its deliberations, but when these persons hold an

official post, the Minister concerned must first give his consent, with or without the condition that professional secrecy is to be observed. A Minister himself may be requested to appear and give explanations to the committee on points of policy. Although, in theory, a Minister is not obliged to appear before the committee, a refusal to do so would not be in harmony with French parliamentary traditions. All papers which the committee desires to consult are communicated to it through its chairman by the competent Minister. Should the latter consider that reasons of State forbid him to communicate any document thus asked for, the Minister informs the chairman of the committee, which usually acquiesces in the Minister's view. If the committee persists in its demand, the matter is brought before the Chamber. Should the latter support the committee, such action is likely to bring about a Ministerial crisis.

‘In certain cases, the Committee for Foreign Affairs may be invested by the Chamber with the powers of a special commission of enquiry. These powers include the right of hearing sworn witnesses and of pursuing investigations in any part of France or abroad.

‘There is no permanently constituted Committee for Foreign Affairs in the Senate. Bills submitted to this Assembly concerning foreign affairs are referred to a special committee. In some cases, especially when the matter is pressing, they are merely referred to the Senate Finance Committee. The same rules respecting the summoning of witnesses, official or non-official, as obtain in the case of the Committee for Foreign Affairs of the Chamber apply in the committees of the Senate.

‘The General Budget Committee of the Chamber of Deputies, which is the most important of all parliamentary committees, is also composed of forty-four members nominated by the House in the same manner as the Committee for Foreign Affairs, but, unlike the latter, is elected for one year only. It appoints a reporter¹ for each of the departmental budgets, who, for the purposes of his report, has necessarily to be in close touch with the Minister and departments

¹ For this, and for a comparison of the French system with the British, see Ilbert, *Legislative Methods and Forms* (1901), pp. 108-10.

concerned, from whom the greater part of the information contained in the report has to be derived.

‘The report on foreign affairs of the Budget Committee is a valuable annual record of French policy. It is published generally towards the end of each year.

‘Interpellations respecting foreign policy by individual deputies on their own initiative, or in the character of spokesmen of their political group, are frequent in the French Parliament. In many cases, the Minister for Foreign Affairs accepts an immediate decision; in others, he requests the permission of the House to postpone it to some later and unspecified date, or to join it on to other questions of which notice has been given so as to form a general debate on foreign policy.’—*Treatment of International Questions by Parliaments in European Countries, the United States, and Japan*. Parliamentary Papers, *Miscellaneous*, No. 5 (1912), [Cd. 6102], pp. 7–8.

II. *Germany* :

‘Parliamentary participation or intervention, actual or possible, in the conduct of the foreign affairs of the German Empire, could be fully defined only by an exhaustive examination of the theory and working of the Federal and State machineries. The considerations most necessary to bear in mind are :

‘1. The powers expressly reserved by the constitution of the German Empire to the Emperor, as laid down in article 11 of the constitution, which runs as follows :

“The Presidency of the Federation is vested in the King of Prussia, who bears the name of German Emperor. The Emperor has to represent the Empire internationally; to declare war and to conclude peace in the name of the Empire; to enter into alliances and other treaties with foreign Powers; to accredit and receive Ambassadors.

“The consent of the Federal Council is necessary for the declaration of war in the name of the Empire, unless an attack on the territory or the coast of the Federation has taken place.

“In so far as treaties with foreign States have reference to affairs which, according to article 4, belong to the domain

of Imperial legislation, the consent of the Federal Council is requisite for their conclusion, and the sanction of the Reichstag for their coming into force.”

(Article 4 gives a list of the affairs which are subject to the superintendence and legislation of the Empire.)

‘2. The relations between the Reichstag and the Imperial Chancellor, who is solely responsible for the Government departments, including the Foreign Office, and is not responsible to the Reichstag; and

‘3. The limitation of the effective powers of the Reichstag to a share in legislation.

‘In practice the Reichstag deals with foreign affairs (*a*) in connection with the Imperial Budget, which, including as it does the estimates for the office of the Imperial Chancellor and the Foreign Office, is embodied in an annual Bill, which requires the consent of the Reichstag before it can be passed into law, and (*b*) by occasional debates on interpellations, or (*c*) more rarely, on motions.

‘(*a*) The Budget Bill, like other Bills, is read three times. The first reading stage consists of a general discussion, which falls naturally into discussions on foreign and home affairs respectively. The second reading stage consists of, first, detailed debate in committee (see special remarks appended on the Budget Committee), and, secondly, the debate on the report to the whole House. Both in committee and on report the estimates for the separate departments are taken in succession. In committee there is usually a considerable debate on the Foreign Office estimates, and confidential communications are made by the Imperial Chancellor, or more usually the Foreign Secretary, and if necessary by Foreign Office officials. On report also there is often a fairly long debate on the Foreign Office estimates, in which the Imperial Chancellor generally takes part. Foreign questions appear to be seldom raised on the third reading of the estimates.

‘(*b*) The only way in which questions can be addressed in the Reichstag to the Imperial Chancellor—for since the subordinate Ministers, including the Foreign Secretary, appear solely as the Chancellor’s representatives, questions cannot be addressed to them, though they are often deputed

to answer them—is by the tabling of an interpellation, signed by not less than thirty deputies. On the day when the interpellation is placed on the order paper the president asks the Imperial Chancellor “whether and when” he will answer the interpellation. If the Chancellor consents to answer, the interpellator delivers a speech, the Chancellor or his representative replies, and a debate may follow if it is desired by not less than fifty members. Motions on the subject of the interpellation are not permissible.

‘(c) Motions of any kind can be tabled if signed by not less than fifteen deputies, and if they are not withdrawn after debate, votes are taken upon them. The presentation of critical motions is, however, almost invariably checked by the knowledge that the Imperial Chancellor or his “representatives” will neither take part in nor even attend the debate, and by the fact that a motion which is carried remains an academic expression of opinion. The small number of interpellations, and motions on foreign questions during the last session¹ of the Reichstag shows to what extent that body makes use of its powers apart from the annual discussion on the estimates.

‘As will appear from what has been said, deputies have no power to put questions except by means of the procedure for interpellations which has been described.

‘It has been observed that the effective powers of the Reichstag are limited to a share in legislation. The necessity therefore for the Government to consult the Reichstag arises in international questions only when legislation is necessary (see last paragraph of article 11 of the constitution, quoted above). A case has recently arisen of an important treaty which was found not to involve legislation, and therefore not to require the Reichstag’s consent. The “Bundesgebiet”, or federal territory, is defined by article 1 of the constitution, which gives a list of all the Federal States, and “alterations of the constitution can be effected only by legislation. They are considered as rejected if they have 14 votes in the Federal Council against them” (article 78 of the constitution). The

¹ This Report was transmitted from Berlin by Earl Granville to Sir Edward Grey at the Foreign Office in December 1911.

colonies do not form part of the "Bundesgebiet". The Franco-German Treaty, ceding and acquiring territory in the Cameroons and Congo, did not therefore require to be accepted by the Reichstag, and was in fact merely communicated to the House. In view of the dissatisfaction caused by the discovery of this fact, the Reichstag on the 5th December, with the assent of the Government, read three times and passed a law which causes the following paragraph to be inserted in the Colonial Law of the 25th July, 1900 ("Schutzgebietsgesetz") :

"An Imperial law is required for the acquisition and cession of a protectorate, or part of such. This provision does not apply to the question of the adjustment of frontiers."

It remains to consider the practical or possible influence of the State Diets upon foreign affairs. Although the separate States retain Ministers for Foreign Affairs (usually the Ministers-President), and the right to separate representation abroad—Bavaria, for instance, has Ministers at Vienna, St. Petersburg, Paris, and Rome (Vatican and Quirinal), and Saxony at Vienna—foreign relations are now conducted almost entirely (*a*) in Germany, by the Imperial Foreign Office in Berlin, which was raised to federal status out of the Prussian Foreign Office in 1867, and (*b*) abroad, by the Ambassadors and Ministers appointed by the Emperor (see article 11). Attempts are sometimes made to raise in the State Diets—especially at Dresden, Munich, and Stuttgart—questions of State policy in the Empire's foreign relations. Such questions can be referred to in general debates, or interpellations may be introduced. The question usually asked is what influence the Government of the State in question has exercised in Berlin, and especially whether there has been a meeting of the Foreign Affairs Committee of the Federal Council. This committee is essentially different from the seven permanent committees of the Federal Council.

By article 8 of the constitution : "The Federal Council forms permanent committees from its own members :

1. For the land-army and fortresses ;
2. For naval affairs ;
3. For customs and taxes ;
4. For commerce and intercourse ;

5. For railways, posts, and telegraphs ;
6. For affairs of justice ;
7. For finances.

“In each of these committees, besides the presidency, at least four of the Federal States will be represented, and in the committees each State has only one vote. In the committee for the land-army and fortresses Bavaria has a permanent seat ; the other members thereof, as well as the members for the naval committee, are nominated by the Emperor ; the members of the other committees are elected by the Federal Council. The composition of these committees is to be renewed for every session of the Federal Council or every year, as the case may be, when the outgoing members may be re-elected.

“Besides these, a committee for foreign affairs will be formed in the Federal Council, comprised of the representatives of the Kingdoms of Bavaria, Saxony, and Wurtemberg, and of two other representatives of other Federal States, who will be yearly elected by the Federal Council, in which committee Bavaria will occupy the chair.

“The necessary officials will be placed at the disposal of these committees.”

“As the foreign affairs committee of the Federal Council exists solely for the purpose of receiving information about foreign affairs, which is usually conveyed by the Imperial Chancellor himself, and of providing means for an exchange of views, Prussia, in whom the actual conduct of foreign affairs is vested, is not a member of the committee. The proceedings are confidential, and State Ministers, when questioned in their respective Diets, usually say nothing more than that the information conveyed to the committee has been satisfactory, and that unanimity has prevailed. In reality, the committee has met on very few occasions since the foundation of the Empire, but since the domestic crisis of November 1908 it has become the practice for Bavaria to call meetings in connection with any foreign question of great magnitude and lasting public interest. From 1871 to 1908 only two meetings of the committee appear to have been held. Since 1908 there have been several meetings, including one before the meeting of the Reichstag in October of the present year.

'The Budget Committee of the Reichstag

' Besides the estimates, questions of great public interest, especially in connection with foreign affairs, are occasionally referred to the Budget Committee.

' It consists of twenty-eight members, appointed by the leaders of the various parties in the Reichstag, who alone have power to add to or make any alteration in the committee.

' A reporter ("Referent") and assistant-reporter are appointed, who can work separately or together as they like, and who report verbally to the whole committee.

' There are no regular sub-committees. These are occasionally appointed by the committee, and consist of from three to seven members.

' Neither the sub-committees nor the Budget Committee itself have the right to send for persons, papers, or records, but they can, and often do, ask the president of the Reichstag to do so.

' After the Budget Committee has received and considered the reports of the various reporters, a general reporter is appointed who reports verbally to the Reichstag.

' The distribution of the questions to be reported on is made by the heads of the committee after agreement with the members.

' Ministers can always make statements in the committee.

' The proceedings are secret, but reports of the sittings are issued.'—*Ibid.*, pp. 8-11.

III. United States of America :

Mr. James Bryce, in transmitting, on January 31, 1912, a memorandum prepared by the councillor of the British embassy at Washington, wrote :

' Upon the general subject it is sufficient to say that when the United States constitution was formed, the question arose as to the authorities of the Government in which the control of foreign affairs should be vested. To have given it to the executive alone, following the precedent of England,¹

¹ This is not wholly true of England, since even in the eighteenth century the executive, in so far as Ministers and a Cabinet stood for the executive, was to a considerable extent dependent upon the Houses of Parliament for its own life and for security of policy.

seemed open to objection as entrusting to him a range of discretionary power which might easily have been abused. On the other hand, to confide it to any council would have made negotiations much more difficult, and probably have impeded prompt action in cases where promptitude was needed. The result was the plan of entrusting the initiative to the executive and the power of sanction to the Senate, which was intended, being a small body at the time the constitution was made, to be, although elective, something resembling the older forms of the English Privy Council. It was thought that a comparatively large body like the House of Representatives was not well fitted to join in the exercise of such functions.

‘The capital difference between the United States system and our own lies in the fact that here the President holds office for a fixed period by direct commission from the people, irrespective of the Legislature, while in Great Britain the Ministry is dependent on the confidence and support of the House of Commons. Had the people of the United States left the control of foreign affairs and the treaty-making power entirely in the hands of the executive, they would have given to it a power greater, because unchecked by the Legislature, than a Cabinet enjoys in England. If a President had resolved to follow a course deemed dangerous by the Legislature, there would have been no means of stopping him in that course until the end of his term, except, indeed, by the extreme method of impeachment—a tedious method and one hard to apply in practice. It was therefore deemed necessary to associate the Senate with the President in this important function. In Great Britain the practice has been to allow the Cabinet to use the ancient powers of the Crown with comparatively little interference by Parliament, because the House of Commons has, by its practice of interrogating Ministers, the means of knowing what course in foreign affairs they are following, and, if it disapproves that course, of indicating its disapproval. Each country can therefore advance solid reasons on behalf of its own system.’—*Ibid.*, p. 26; and see, further, pp. 26–33.

[In the discussions that led to the framing of the Constitu-

tion, it was proposed by Madison, Hamilton, and Jay that the Executive should be appointed 'during good behaviour, or in other words for life'. Other members of the Convention proposed that the appointment be for seven years. The proposal that it be for four years was carried. 'The ingredients which constitute energy in the Executive', says Mr. Justice Story, following Hamilton in *The Federalist*,¹ 'are unity, duration, an adequate provision for its support, and competent powers. The ingredients which constitute safety in a republican form of government are a due dependence on the people, and a due responsibility to the people.'² 'A government ill executed, whatever may be its theory, must, in practice, be a bad government.'³ 'Whether the period of four years will answer the purpose for which the Executive department is established, so as to give it at once energy and safety, and to preserve a due balance in the administration of the Government, is a problem which can be solved only by experience. That it will contribute far more than a shorter period towards these objects, and thus have a material influence upon the spirit and character of the Government, may be safely affirmed.'⁴

The study of this subject may with advantage be pursued in *The Federalist*, especially in five letters—lxii—lxvi—chiefly by Hamilton on the Senate, and in letters lxix—lxxv on the Executive, by Hamilton; in Tocqueville's *La Démocratie en Amérique*, and in Bryce's *American Commonwealth*. 'To trace the mischievous effects of a mutable government would fill a volume', wrote Hamilton. 'It forfeits the respect and confidence of other nations and all the advantages connected with national character.'⁵ 'As for myself', said De Tocqueville, 'I have no hesitation in avowing my conviction, that it is most especially in the conduct of foreign relations that democratic governments appear to me to be decidedly inferior to governments carried on upon different principles. Experience, instruction, and habit may almost always succeed in creating a species of practical discretion in democracies, and

¹ No. lxx.

² *Commentaries on the Constitution* (1833), § 1418.

³ *Ibid.*, § 1417.

⁴ *Ibid.*, § 1439. See also § 1515.

⁵ *The Federalist*, No. lxii.

that science of the daily occurrences of life which is called good sense. Good sense may suffice to direct the ordinary course of society; and amongst a people whose education has been provided for, the advantages of democratic liberty in the internal affairs of the country may more than compensate for the evils inherent in a democratic government. But such is not always the case in the mutual relations of foreign nations. Foreign politics demand scarcely any of those qualities which a democracy possesses; and they require, on the contrary, the perfect use of almost all those faculties in which it is deficient. Democracy is favourable to the increase of the internal resources of a State; it tends to diffuse a moderate independence; it promotes the growth of public spirit, and fortifies the respect which is entertained for law in all classes of society: and these are advantages which only exercise an indirect influence over the relations which one people bears to another. But a democracy is unable to regulate the details of an important undertaking, to persevere in a design, and to work out its execution in the presence of serious obstacles. It cannot combine its measures with secrecy, and it will not await their consequences with patience.¹ 'In all free countries', writes Lord (then Mr.) Bryce, 'it is most difficult to define the respective spheres of the legislature and executive in foreign affairs, for while publicity and parliamentary control are needed to protect the people, promptitude and secrecy are the conditions of diplomatic success. Practically, however, and for the purposes of ordinary business, the President is independent of the House, while the Senate, though it can prevent his settling anything, cannot keep him from unsettling everything. He, or rather his Secretary of State, for the President has rarely leisure to give close or continuous attention to foreign policy, retains an unfettered initiative, by means of which he may embroil the country abroad or excite passion at home.'²

Mr. Balfour, in the discussion already referred to³ in the House of Commons, on March 19, 1918, alludes to both the

¹ *La Démocratie en Amérique*, ch. xiv. (translation by Henry Reeves).

² *The American Commonwealth*, part 1, ch. vi.

³ Above, pp. 265 sqq.

French Parliamentary Committee and the American Foreign Relations Committee. The French Committee 'does not really make French diplomacy more democratic or less concerned in the interchange of ideas through the ordinary diplomatic channels than British diplomacy. . . . What I have heard about the working of the French Committee does not make me specially desirous of seeing it introduced into this country.'¹ 'The American Foreign Relations Committee stands on a wholly different basis, for this reason among others, that the American Minister responsible for foreign affairs is not, and cannot be, a member either of the House of Representatives or of the Senate. His only connection with the Legislature of his country is through the Committee. If that is the system on which your Constitution is to work, there may be a great deal to be said for it; indeed, a Committee seems to me to be very nearly a necessity. If you are going to exclude your Ministers from this House, very likely you would find it desirable to have a Committee to act as intermediary between them and the House. But that is a change which none of us are going to live to see, and which certainly does not seem to me to be in the democratic direction. What this House desires is to be in contact with the Ministers who control its affairs and to turn them out if it does not like them. That is not the American system. The American system is that Ministers of the day depend upon the President of the day, that the President of the day is elected by direct popular election, and that during his term of office he is, in that sense, quite independent of the approval or disapproval of Congress.'²

We have not travelled far beyond the wise words of the author-statesman, Alexander Hamilton, writing in *The Federalist*³ against the participation of the House of Representatives in the treaty-making power. 'The fluctuating and, taking its future increase into account, the multitudinous composition of that body, forbid us to expect in it those qualities which are essential to the proper execution of such a trust. Accurate and comprehensive knowledge of foreign

¹ *Parliamentary Debates*, House of Commons, vol. 104, 869.

² *Ibid.*

³ No. lxxv. See the Preface to this work.

politics; a steady and systematic adherence to the same views; a nice and uniform sensibility to national character; decision, *secrecy*,¹ and despatch are incompatible with the genius of a body so variable and so numerous. The very complication of the business, by introducing a necessity of the concurrence of so many different bodies, would of itself afford a solid objection.’^{2]}

7

The Dominions and the Control of Foreign Policy before the Paris War Conference.

(1) The following Resolution was adopted by the Imperial War Conference on April 16, 1917:

‘The Imperial War Conference are of opinion that the readjustment of the constitutional relations of the component parts of the Empire is too important and too intricate a subject to be dealt with during the War, and that it should form the subject of a special Imperial Conference to be summoned as soon as possible after the cessation of hostilities.

‘They deem it their duty, however, to place on record their view that any such readjustment, while thoroughly preserving all existing powers of self-government, and complete control of domestic affairs, should be based upon a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth, and of India as an important portion of the same, should recognise the right of the Dominions and India to an adequate voice in foreign policy and in foreign relations, and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern, and for such necessary concerted action, founded on consultation, as the several Governments may determine.’³

(2) ‘For some time it had become increasingly apparent that some method had to be found of informing the Overseas Governments of the political and military situation and of enabling nations which were making such sacrifices for the

¹ Italicized in the original.

² Cf. No. lxiv. (by Jay).

³ *Imperial War Conference, 1917. Extracts from Minutes of Proceedings and Papers laid before the Conference* [Cd. 8566], p. 61.

common cause to take their part in the counsels of the Empire. Accordingly, at the beginning of 1917, the Prime Ministers of the Overseas Dominions were invited to attend a series of special meetings at the War Cabinet in order to discuss the problems of the war and the possible conditions of peace. India, for the first time, was also asked to send representatives to take part in this Council of the Empire. The sessions of the Cabinet, thus enlarged, came to be known as the Imperial War Cabinet. The necessities of the war have thus brought into being a body representative of all parts of the Empire, able to deliberate and to come to decisions on questions affecting the day-to-day conduct of the war as well as on the larger issues of Imperial policy without impairing the autonomy of the units of which the Empire is composed. . . . So successful was this experiment in the opinion of its members that it was decided unanimously that there ought to be an annual meeting of the Imperial Cabinet and that the Prime Ministers of the Empire or their specially delegated representatives, together with the Ministers in charge of the great Imperial Offices should be *ex officio* members.’¹

‘In June 1917 the War Cabinet invited General Smuts, who had attended the meetings of the Imperial War Cabinet as the Representative of the Government of the Union of South Africa, to attend the meetings of the War Cabinet during his stay in the British Isles.’²

‘The outstanding event of the year in the sphere of Imperial affairs has been the inauguration of the Imperial War Cabinet.’³

The advance made during 1918 is shown by the following announcement which was issued on August 18, 1918:

‘During the past two and a half months the Imperial War Cabinet has been in continuous session. Every aspect of policy affecting the conduct of the war and the question of peace has been examined by the Prime Ministers of the Empire and other members representative of all its parts.

‘These meetings have proved of such value that the Imperial War Cabinet have thought it essential that certain modifications should be made in the existing channels of communication,

¹ *The War Cabinet. Report for the Year 1917* [Cd. 9005], pp. vi-vii.

² *Ibid.*, p. 1.

³ *Ibid.*, p. 5; and see pp. 6-10.

so as to make consultation between the various Governments of the Empire in regard to Imperial policy as continuous and intimate as possible.

'It has, therefore, been decided that for the future the Prime Ministers of the Dominions, as members of the Imperial War Cabinet, should have the right to communicate on matters of Cabinet importance direct with the Prime Minister of the United Kingdom whenever they see fit to do so.

'It has also been decided that each Dominion shall have the right to nominate a visiting or a resident Minister in London to be a member of the Imperial War Cabinet at meetings other than those attended by the Prime Ministers. These meetings will be held at regular intervals. Arrangements will also be made for the representation of India at these meetings.'¹

¹ For the general question of the position held in the past by the self-governing colonies—now styled 'Dominions'—in relation to the conduct of foreign policy, see Keith, *Responsible Government in the British Dominions*, iii, pp. 1101–57 and 1455–6, and *The Oxford Survey of the British Empire* (6 vols., 1914), i: *General Survey*, especially pp. 32, 54, 59, 84, 89, 114, 117.

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